MODEL BYE-LAWS

OF THE

LOCAL GOVERNMENT BOARD

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MODEL BYELAWS.

MODEL BYELAWS,

RULES AND REGULATIONS

UNDER

THE PUBLIC HEALTH AND OTHER ACTS,

With Alternative and Additional Clauses,

PREPARED AND EDITED BY

WILLIAM MACKENZIE, M.A.,

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IN TWO VOLUMES.

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CONTAINING

THE MODEL BYELAWS OF THE LOCAL GOVERNMENT BOARD, UNDER THE PUBLIC HEALTH AND OTHER ACTS.

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PREFACE.

YEAR after year the annual reports of the Local Government Board bear testimony to the activity of local authorities in making byelaws under the Public Health and other Acts. These byelaws relate to a multiplicity of subjects on which no adequate work of reference is available for the guidance of local authorities. Exhaustive as are the departmental model byelaws in regard to the subjects with which they deal, the adaptation of the various series to the special requirements of particular districts involves much labour. In the absence of any such work of reference, the special object of the model clauses is not in all cases immediately apparent; but even where the object is sufficiently clear, much time and trouble are often spent, more or less fruitlessly, in devising modifications of the byelaws, or in preparing additional clauses, which would be saved if alternative forms of byelaws were more readily accessible. In the work contained in these volumes, the Editors have utilised a practical experience of a wide and varied character, and extending over many years, in the suggestion of alternative forms of byelaws adapted to the varying conditions of different localities. This is especially important at the present time in view of recent criticisms tending to show that the model byelaws, without modification, are considered to be in some respects unnecessarily stringent, at any rate as regards districts of a rural character. Among other things, suggestions are made for the framing of building regulations applicable more

especially to country districts; and in all cases both the model clauses and any alternative forms that may be suggested are discussed in ample detail in connection with the decisions of the courts of law.

This, however, is but one of the objects which have been held in view in the preparation of this work for the press, not the least value of which, it is hoped, will be found in connection with the enforcement of byelaws based on the model clauses, where these are already in force, or may hereafter be adopted by the local authority. The architectural, sanitary, and practical details generally have been supplied by authorities of high standing in these special branches of the subject; and in addition, a prominent feature has been made of the collation of the reports of decided cases, so arranged under sub-headings as to be easily referred to, whether in the Council Chamber or in the Courts. In the first volume alone, sixteen separate series are discussed and illustrated, the statutory powers collated with the various clauses, and the effect of decided cases pointed out, equal attention being given, *e.g.*, to the regulation of hackney carriages (including "motor cabs"), of public markets, pleasure grounds and pleasure boats, and public bathing, as to matters of more direct sanitary bearing such as the prevention of nuisances, the construction of streets and buildings, and the regulation of lodging-houses. In the case of the byelaws as to streets and buildings the text is illustrated by the addition of an important series of original diagrams.

In the second volume eighteen supplementary series of byelaws, rules and regulations under the Public Health and other Acts are given. Some of these are official series prepared by the Local Government Board. Thirteen, however, are original. The collection includes supplementary byelaws as to

streets and buildings under the Public Health Acts Amendment Act, 1890; byelaws as to public slaughter-houses and regulations with respect to dairies, cowsheds, and milkshops, matters which the Report of the Royal Commission on Tuberculosis invests with great importance to the community; series regulating the housing of gipsies and other migratory classes of the population; and clauses with respect to omnibuses, brakes, and tramway carriages. Three further series relate to public recreation; and the collection likewise includes model clauses with regard to scavenging, public conveniences, cabmen's shelters, and allotments for the labouring classes.

Full tables of contents accompany the separate volumes, and indicate more in detail the variety of subjects dealt with.

In regard to nearly every one of these, numerous questions of great practical importance continually present themselves, even after the local authority have made byelaws; and in the case of at least four out of every five of the subjects mentioned, there is not at present any similar work of reference in existence.

The Editors take this opportunity of thanking their friends, Mr. R. Bruce Low, M.D., and Mr. C. Shaw Bond, M.B., M.R.C.S., D.P.H., for many valuable suggestions on the sanitary portions of this work, and Mr. Brook Taylor Kitchin for the like suggestions on the architectural portions.

W. M.
P. H.

9, King's Bench Walk,
Temple, E.C.
September, 1899.

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ADDENDA.

Building Regulations in Rural Districts.

CONSIDERABLE prominence having been given to this matter recently, it has been thought advisable to direct attention in a somewhat special manner to the remarks on pp. 77 and 78, as to the powers exercisable by the council of any rural district adopting Part III. of the Public Health Acts Amendment Act, 1890, and having no such further "urban powers" as could only be conferred upon them by an order of the Local Government Board. It will be seen from the detailed explanation given in the text as to the byelaws which such a rural district council are empowered to make, and those which they cannot make respectively, that the construction of buildings generally can only be regulated, in such a case, in so far as it affects health. The council cannot, for instance, adopt the model byelaws with respect to the structure of walls and foundations "for securing stability and the prevention of fires"; but they can adopt model clauses 10, 17 and 27, which relate to the concreting of sites, the provision of damp courses, and the coping of walls if carried up above the roof, and which are regarded as byelaws "for purposes of health." A series consisting of the model clauses mentioned on p. 77, viz. :—

10. Sites to be asphalted or concreted;

17. Damp courses in walls;

53—59. "With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings";

60—66. "With respect to the drainage of buildings";

67—89. "With respect to waterclosets, earthclosets, privies, ashpits, and cesspools in connexion with buildings"; and

90. "With respect to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation";

with proper interpretation and exemption clauses, and proper provisions as to notices, deposit of plans, etc., would be suitable, it is thought, to any rural district in which byelaws as to buildings are required at all. It may be doubted whether there is any rural district in which such a code would operate oppressively, or in which its provisions could truly be said to be unnecessary, if all the conditions of life are taken into account. It would not prevent the construction of wooden cottages, or of buildings with thatched roofs, although the danger of fire and the sanitary disadvantages arising from the erection of wooden dwellings, with nothing to regulate the construction of their roofs and chimneys, must be sufficiently obvious. Whatever is to be gained by such means in the way of cheapness of construction and picturesqueness of effect would therefore be retained; and the series would certainly provide as to many matters with regard to which the structure and sanitary requirements of buildings in the country, where no byelaws are in force, are often much worse than in towns. Clauses as to—

the flushing of waterclosets (see vol. ii., p. 29);

the height of rooms intended for human habitation (*ib.* p. 27); and

the alteration of buildings (*ib.* pp. 29—32)

might be added if thought well.

Where, by an order of the Local Government Board, the rural district council have obtained more extensive powers with regard to buildings than they would have secured by the mere adoption of Part III. of the Public Health Acts Amendment Act, 1890, so far as it can be adopted for a rural district, it may be worth mentioning that it is not obligatory upon them to exercise all the powers conferred upon them, although it may be said that, if not wanted, the powers should not have been applied for. They could adopt a similar series to that which is above described, as though they had no further powers with regard to new buildings.

Assuming, however, that a need of more comprehensive regulations, dealing among other matters with the materials and structure of walls, roofs and chimneys, is felt to exist as regards the more populous portions of the district, there is nothing to prevent two separate series being framed,—the one applying to the whole district for which urban powers have been obtained the regulations "for purposes of health" which are contained in the clauses mentioned above; and the other prescribing as regards the more populous places only the requirements of the model byelaws "with respect to the structure of walls, foundations, roofs, and chimneys . . . for securing stability and the prevention of fires."

Whether, in a case where the local authority had power to prohibit the construction of wooden buildings, a clause permitting such erections in outlying portions of the district would be allowed by the Local Government Board, is a matter on which no opinion can be expressed here; but it is probable that it would not be allowed without special consideration, or without reference to special circumstances. The case of the wooden house of Norway, which is sometimes referred to as an example of wooden construction prohibited by the model byelaws, has no analogy in the much flimsier constructions of wood which have done duty as dwellings in rural districts in this country; and to say the least, it seems contrary to sound policy for a local authority specially invested with power to regulate the construction of buildings with reference to their stability and the prevention of fires, to go out of their way to provide for the erection of cottages the external walls of which are formed of a comparatively unsubstantial framework of wood, covered outside with weather-boarding and inside with lath and plaster. If, however, wooden buildings are allowed at all, it is suggested that the size of them should be limited, that they should not be within a prescribed distance of other buildings not in the same curtilage, and that their roofs and chimneys should be constructed in accordance with the requirements of the model byelaws. On grounds of health also, a better mode of construction than was formerly considered good enough ought in any case to be insisted upon. A wooden building, if intended for human habitation, ought to be raised off the ground by means of dwarf walls or piers of brick or stone, having proper damp courses; and the site of the building ought to be asphalted or concreted as required by model clause 10.

Places where the Towns Improvement Clauses Act, 1847, *is in force.*

In addition to the clauses mentioned in the text, the following may require consideration where the provisions of the Towns Improvement Clauses Act, 1847 (10 & 11 Vict. c. 34), are incorporated with any local Act, viz., model clauses 11 and 52 of the series with respect to new streets and buildings. (See s. 109 of the Act of 1847.)

MODEL BYELAWS.

INTRODUCTION.

INTRODUCTION.

PART I.

First issue by Local Government Board of Model Bye-laws.

Circular of Local Government Board (25th July, 1877).

THE first issue of the Local Government Board's Model Byelaws took place in July, 1877, and comprised nine principal series. A *Circular Letter*, dated the 25th July, 1877, was issued by the Board with the series in question, in which they stated that "in the preparation of these forms the Board have not hesitated to seek assistance from advisers whose practical experience rendered their criticism of the proposed clauses of especial value. Thus, through the ready co-operation of the authorities of the city of London, the Board have been enabled to obtain from the officers charged with the superintendence of the markets of that city many useful observations upon the clauses suggested as byelaws for the regulation of provincial markets. From the varied and extensive information at the disposal of the Commissioners of Police of the Metropolis, the Board have derived much assistance in the compilation of the series relating to hackney carriages and common lodging-houses. The Board have been also favoured with a very comprehensive and elaborate statement of the views of the Royal Institute of British Architects upon the byelaws for the regulation of new streets and buildings.

"Equal care has also been bestowed upon the work of rendering the model series free from objection upon legal grounds. The Board have endeavoured to exclude every provision of doubtful validity, and to confine the clauses strictly within the limits imposed by the statutory enactments by which they are authorised."

Prefatory memoranda.

Each series was accompanied by a memorandum indicating the points of chief importance to which, in the opinion of the Local Government Board, it was necessary to direct the attention of local authorities in connection with the special

subjects to which the series relates. The Circular Letter of the Department also contained some explanatory observations affecting particular series.

Subsequent issues of model series.

A similar plan was followed by the Department in subsequent issues of Model Byelaws under the Public Health Act, 1875, and incorporated enactments. The last of these—completing the plan of the original issue—was made on the 25th July, 1882. In all sixteen principal series have been issued, the subjects of which are as follow:

Subjects of the Model Byelaws.

I.—(*a*) The cleansing of footways and pavements;

(*b*) The removal of house refuse from premises; and

(*c*) The cleansing of earthclosets, privies, ashpits and cesspools belonging to premises. (38 & 39 Vict. c. 55, s. 44.)

II.—The prevention of nuisances arising from snow, filth, dust, ashes, and rubbish, and the prevention of the keeping of animals on any premises so as to be injurious to health (*ib.*).

III.—Common lodging-houses (*ib.* s. 80).

IV.—New streets and buildings (*ib.* s. 157).

V.—Markets (10 Vict. c. 14, s. 42; 38 & 39 Vict. c. 55, s. 167).

VI.—Slaughterhouses, other than those provided by local authorities* (10 & 11 Vict. c. 34, s. 128; 38 & 39 Vict. c. 55, s. 169).

VII.—Hackney carriages (10 & 11 Vict. c. 89, s. 68; 38 & 39 Vict. c. 55, s. 171).

VIII. –Public bathing (10 & 11 Vict. c. 89, s. 69; 38 & 39 Vict. c. 55, s. 171).

IX.— (i.) Public baths;

(ii.) Public washhouses;

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* Supplementary Model Byelaws (London: Shaw and Sons), now in the press.

(iii.) Open bathing places; and

(iv.) The duties of the officers and servants of public baths and washhouses and open bathing places. (9 & 10 Vict. c. 74, s. 34, and Sched. A.)

X.—Pleasure grounds (38 & 39 Vict. c. 55, s. 164).

XI.—Horses, ponies, mules, or asses standing for hire (38 & 39 Vict. c. 55, s. 172).

XII.—Pleasure boats and vessels (*ib.*).

XIII.—Houses let in lodgings, or occupied by members of more than one family (*ib.* s. 90).

XIV.—Cemeteries (38 & 39 Vict. c. 55, s. 141; 42 & 43 Vict. c. 31, s. 2).

XV.—Mortuaries (38 & 39 Vict. c. 55, s. 141).

XVI.—Certain offensive trades, viz.:

(*a*) The trade of a blood boiler;
(*b*) ,, blood drier;
(*c*) ,, bone boiler;
(*d*) ,, fell monger;
(*e*) ,, tanner;
(*f*) ,, leather dresser;
(*g*) ,, soap boiler;
(*h*) ,, tallow melter;
(*i*) ,, fat melter, or fat extractor;
(*j*) ,, tripe boiler;
(*k*) ,, glue maker;
(*l*) ,, size maker; and
(*m*) ,, gut scraper (*ib.* s. 113).

Subjects not dealt with in this model series.

The sixteen series above mentioned have been supplemented by the subsequent issue by the Local Government Board, of Model Byelaws as to hop pickers' and fruit pickers' lodgings (38 & 39 Vict. c. 55, s. 314; 45 & 46 Vict. c. 23), and tent and

van dwellings, etc. (48 & 49 Vict. c. 72, s. 9). Other subjects on which byelaws can be made by local authorities under the Public Health Acts and incorporated enactments, but as to which no model form of clauses has been issued by the Department, are public slaughterhouses (38 & 39 Vict. c. 55, s. 169, first paragraph); omnibuses (52 & 53 Vict. c. 14); and the various matters on which byelaws are authorised by the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59). As to all of these, reference may be made to a companion volume to the present work.*

PART II.

Series requiring urban powers.

The following series of the Model Byelaws cannot be adopted by a rural district council unless the council have been invested by an order of the Local Government Board with the powers of an urban district council under the enactments authorising the byelaws to be made, viz.:—

Series II.—Nuisances (Public Health Act, 1875 (38 & 39 Vict. c. 55, s. 44));

IV.—New Streets and Buildings (*ib.* s. 157);

VI.—Slaughterhouses (*ib.* s. 169);

VII.—Hackney Carriages (*ib.* s. 171 (4));

VIII.—Public Bathing (*ib.* s. 171 (5));

X.—Pleasure Grounds (*ib.* s. 164);

XI.—Horses, Ponies, etc. (*ib.* s. 172);

XII.—Pleasure Boats (*ib.* s. 172);

XVI.—Offensive Trades (*ib.* s. 113).

By whom application for powers can be made.

The power to issue such orders is conferred upon the Local Government Board by section 276 of the Public Health Act, 1875, and may be exercised by that Board on the application either of the rural district council, or of the county council;

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* Supplementary Model Byelaws (London: Shaw and Sons), now in the press.

or in the case of any particular parish, or part of a parish having a parish council, of the parish council. An application may also be made by persons rated to the relief of the poor to the amount of one-tenth at least of the net rateable value of any rural district, or of any contributory place therein (38 & 39 Vict. c. 55, s. 276; 56 & 57 Vict. c. 73. s. 25 (7)).

Applications, how to be made.

Any local authority proposing to apply for an order conferring "urban powers" upon the rural district council, should pass a resolution directing the application to be made, and a copy of the resolution should be forwarded to the Local Government Board. The resolution should specify the enactment or enactments under which it is desired that powers should be conferred, and the contributory place or places in respect of which they are desired; and the copy forwarded to the Local Government Board should be accompanied by a statement in brief, but explicit, terms of the reasons which induce the local authority to make the application.

Slaughter-houses.

With regard to certain matters, the application for urban powers should not be limited to the particular enactment authorising the making of byelaws on the subject. Thus, if the power sought is that of making byelaws as to slaughter-houses, the local authority should apply that both the second and the third paragraph of section 169 of the Act, and also section 170, may be put in force, as it would seem that the last two enactments should be in operation wherever the second paragraph of section 169 applies. The Local Government Board will probably require to be informed in this case of the number of slaughterhouses in each of the contributory places to which the application relates.

Offensive trades.

If the powers of section 113 of the Act (relating to offensive trades) are applied for, the application should extend to sections 112, 114 and 115.

Streets and buildings.

Where power to make byelaws as to new streets and buildings is applied for, the application should extend to section 158 of the Act, as well as section 157.

Powers under Public Health Acts Amendment Act, 1890.

Additional powers to make byelaws as to new streets and buildings are contained in section 23 of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59). By adopting so much of Part III. of that Act as applies to a rural district

council, the council may, under section 23 (3) of the Act, obtain certain of these powers, as regards new buildings, without any order of the Local Government Board. But without adopting Part III. of the Act of 1890, they may, if they think necessary, apply to that board to put in force within the contributory places where byelaws are required sections 157 and 158 of the Act of 1875, and section 23 (1), (2) and (4) of that of 1890. In that case the application should extend to sections 25 and 33 of the latter Act.

PART III.

Considerations affecting byelaws generally.

The characteristics of a byelaw were thus described by Lord RUSSELL, C.J., in *Kruse* v. *Johnson*, [1898] 2 Q. B. 91: "A byelaw . . . I take to be an ordinance affecting the public, or some portion of the public, imposed by some authority clothed with statutory powers ordering something to be done or not to be done, and accompanied by some sanction or penalty for its non-observance. It necessarily involves restriction of liberty of action by persons who come under its operation as to acts which, but for the byelaw, they would be free to do or not do as they pleased. Further, it involves this consequence, that, if validly made, it has the force of law within the sphere of its legitimate operation."

It is enacted by section 182 of the Public Health Act, 1875, that, "No byelaw made under this Act by a local authority shall be of any effect if repugnant to the laws of England or to the provisions of this Act." A byelaw to be in harmony with the laws of England must be certain and determinate, and likewise reasonable. In determining the validity of a byelaw made by a public representative body, the court is slow to hold that a byelaw is void for unreasonableness (*Kruse* v. *Johnson, supra*), the aim being to construe it so as to give reasonable effect to the object aimed at (*Walker* v. *Stretton* (1896), 60 J. P. 313; 44 W. R. 525).

A byelaw so made will be supported unless it is manifestly partial and unequal in its operation between different classes, or unjust or made in bad faith, or clearly involving an unjustifiable interference with the liberty of the subject (*Kruse* v. *Johnson, supra*).

The Local Government Board have made some pertinent observations on this point:—

"The Board have, from time to time, had occasion to point out to sanitary authorities that the assumption in their byelaws of the power of suspending the operation of particular provisions in individual cases is open to much objection. Frequently the conditions under which this power may be exercised have been left undetermined in the byelaws; and the result is to impart a general uncertainty to provisions of which the precise scope should be clearly defined. Again, the Board have been called upon to criticise byelaws which, while purporting to lay down rules enforceable by penalties, ignore the necessary details, and substitute vague conditions which render compliance with the byelaws dependent upon the approval, by the sanitary authority or their officers, of the mode of proceeding in each case. Such byelaws also are open to objection on the ground of uncertainty, and they do not fulfil the purpose for which the power of making byelaws was conferred upon sanitary authorities. The Board think that every person who, by neglect of the rules which a byelaw is intended to prescribe, may be rendered liable to a penalty is entitled to demand from those who impose such rules a clear statement of the course of action which must be followed or avoided.

"Further, a byelaw must be reasonable. The exercise of the power which the legislature has confided to sanitary authorities must frequently bring them into contact with important interests. Within certain limits, they may regulate the conduct of persons employed in certain specified callings. They may impose restrictions upon the enjoyment of individual rights and privileges. Trade and property may, under certain conditions, be affected by their action. These considerations point to the necessity for prudence and deliberation in the choice of byelaws, so that the duties and restraints which they create may not interfere oppressively with individual freedom of action.

"A byelaw under the Public Health Act, 1875, will also be invalid if it be repugnant to the provisions of that Act. Parliament has specified a variety of purposes for which byelaws may be made. For those purposes alone are byelaws authorised; and, as the Court of Queen's Bench decided in the case of *R.* v. *Wood* (1855), 5 E. & B. 49; S. C. *nom. R.* v. *Rose*, 24 L. J. (N.S.) M. C., 130; 1 Jur. (N.S.) 802, sanitary

authorities cannot legally assume the power of making byelaws for carrying out the general objects of the Act. It follows, therefore, that every byelaw must be strictly limited with reference to the terms of the specific enactment from which its force is derived. Any attempt, by the strained construction of any such enactment, to extend the range of a byelaw should especially be avoided. But, while it is of primary importance in framing a byelaw to consider closely the language of the statutory provision which declares its purpose, the exact meaning of that language can never be safely determined without careful comparison of other enactments relating to the same or to kindred topics.

"It must always be remembered that byelaws are designed to supplement, and not to vary or supersede the express provisions of the statute law. In the Public Health Act, 1875, and in the incorporated clauses, the subjects of byelaws may sometimes appear identical with those of specific enactments. But, in all such cases, a closer examination will show that the subjects are not really identical.

"And, however difficult it may be to detect the points of difference in a few exceptional instances, a safe rule may be deduced from the obvious considerations that a byelaw which merely repeats a statutory enactment is, to that extent, surplusage, and that a byelaw which aims at altering or amending such an enactment is rendered invalid by the proviso in section 182 of the Public Health Act, 1875." (*Circular Letter*, July, 1877.)

PART IV.

Procedure in submitting byelaws to Local Government Board. Use of draft forms.

The following remarks may be added in explanation of the method of procedure which should be adopted by local authorities in submitting proposed byelaws for preliminary consideration of the Local Government Board. The Department issue in connection with each series of model clauses, a "draft form" on foolscap paper, with wide margin for annotation. Copies of these forms will be supplied to any local authority on application to the Department, either in writing, or otherwise. In making such application, the subjects upon which it is

intended to make byelaws should be distinctly stated. When the necessary forms have been received, they should be completed by filling in the blank spaces, etc., and in this condition should be submitted to the Local Government Board for revision. Any alterations that may be necessary to adapt the model clauses to the circumstances of the district should be shown, if not of considerable extent, in the margin of the forms; but where new clauses are inserted, either in addition to, or in substitution for, any of the model byelaws, they should be written on foolscap paper, with half margin for notes, and be interleaved in their proper places in the draft.

Formal adoption to be deferred.

Up to this point, no formal steps should have been taken by the local authority with a view to the adoption of the byelaws.

Revision by Local Government Board.

If the course above indicated be followed, the Local Government Board will be readily able to direct their attention to the variations (if any) from the model that are proposed by the local authority, and to state their views upon any points which may arise.

When informally approved, byelaws to be printed.

When the revision has been completed, and the local authority have been informed of the decision of the Local Government Board with regard to the allowance or disallowance of the several clauses, a printed copy of the revised series should be obtained for adoption by the local authority. The print should be carefully compared with the draft, with a view to the correction of all errors.

Preliminary advertisement and deposit of the byelaws for inspection.

Before the byelaws can be confirmed, two preliminary conditions have to be complied with. Notice of intention to apply for confirmation must be given in at least one of the local newspapers circulating within the district, one month at least before the application for confirmation is made; and for one month at least before the application, a copy of the proposed byelaws must be kept at the office of the local authority, and must be open during office hours thereat, without fee or reward. Further, the clerk of the local authority is required, on the application of any ratepayer, to furnish him with a copy of the proposed byelaws, or any part thereof, on payment of sixpence for every hundred words contained in the copy. (See 38 & 39 Vict. c. 55, s. 184.)*

* Note that byelaws under the Baths and Washhouses Acts do not require to be deposited for inspection, or advertised, before application is made for the "approval" of the Local Government Board.

Terms of advertisement.

The notice of intention to apply for confirmation should be so framed as to show that the byelaws will be deposited for a full calendar month from and after the date of the first publication of the advertisement, and not merely from the date of the notice.

Revised draft to be deposited.

Although it may be convenient that a print, or other fair copy of the proposed byelaws should be deposited for the inspection of the ratepayers, experience suggests that it may be advisable also to deposit the draft which has been revised by the Local Government Board. Occasionally, this may obviate the necessity for a second advertisement and deposit in consequence of some undetected, but material, error in the fair copy.

Adoption of byelaws under seal.

The necessary advertisement having been duly given, and a full calendar month having elapsed from the date of its first publication in a newspaper, a printed copy of the byelaws should be adopted by the local authority under their common seal. The sealing should be properly attested, and the actual date of sealing should be inserted in the attestation. In the case of a parish council who are not entitled to use a common seal, the byelaws should be signed, at a meeting of the council, by the chairman presiding at the meeting, and two other members of the council, and each of the signatories should affix his own seal. A wafer or any other kind of seal will be sufficient for the purpose.

Application for confirmation.

The byelaws should now be forwarded to the Local Government Board, with an application in specific terms for confirmation by them; and the application should be accompanied (*a*) by the revised draft; (*b*) by a copy of the newspaper containing the first publication of the notice of intention to apply for confirmation of the byelaws; and (*c*) by a statement that the byelaws have been deposited in accordance with such notice for a full calendar month subsequently to the date of publication of the newspaper.

Objections.

Should any objections have been made to the proposed byelaws by persons locally interested, the Local Government Board will no doubt deem it necessary to consider the grounds of objection; but otherwise, assuming that the foregoing instructions have been fully complied with, no further action on the part of the local authority will be necessary before confirmation is given; and the byelaws will come into force immediately on being confirmed.

When the byelaws come into force.

With regard to the confirmation of certain byelaws,—including byelaws made under section 128 of the Towns Improvement Clauses Act, 1847, as to slaughterhouses; byelaws under sections 68 and 69 of the Town Police Clauses Act, 1847, as to hackney carriages and public bathing; and byelaws under section 42 of the Markets and Fairs Clauses Act, 1847, as to markets,—reference should be made to the provisions of the Public Health (Confirmation of Byelaws) Act, 1884 (47 Vict. c. 12). Confirmation of certain byelaws.

A byelaw required to be confirmed by the Local Government Board does not require confirmation, allowance, or approval by any other authority (38 & 39 Vict. c. 55, s. 184). All such byelaws, when confirmed, have the force of law. Effect of confirmation by Local Government Board.

PART V.

Among other provisions in the Public Health Act, 1875 (38 & 39 Vict. c. 55), relating directly or indirectly to byelaws, attention may be directed to the following: All byelaws made by a local authority under the Act, or, for purposes the same as or similar to those of the Act, under any local Act, are to be printed and hung up in the office of the authority, and a copy thereof is to be delivered to any ratepayer of the district to which such byelaws relate, on his application for the same (section 185). A copy of any byelaws made under the Act by a local authority (not being the council of a borough), signed and certified by the clerk of such authority to be a true copy, and to have been duly confirmed, will be evidence, until the contrary is proved, in all legal proceedings, of the due making, confirmation, and existence of such byelaws, without further or other proof (section 186). Publication and evidence of byelaws.

In the case of byelaws made by the council of a borough, section 24 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), provides that the production of a written copy of a byelaw made by the council under that Act, or under any former, or present, or future general or local Act of Parliament, if authenticated by the corporate seal, shall, until the contrary is proved, be sufficient evidence of the due making and

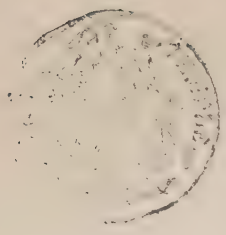
existence of the byelaw, and, if it is so stated in the copy, of the byelaw having been approved and confirmed by the authority whose approval or confirmation is required to the making or before the enforcing of the byelaw.

Destruction, etc. of notice boards.

Any person who destroys, pulls down, injures, or defaces any board on which any byelaw is inscribed will, if the same was put up by authority of the local authority, be liable for every such offence to a penalty not exceeding five pounds (38 & 39 Vict. c. 55, s. 306).

SERIES I.

SCAVENGING.



SCAVENGING.

MEMORANDUM.

By section 44 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), it is enacted that "where the Local Authority do not themselves undertake or contract for— 38 & 39 Vict. c. 55, s. 44.

"The cleansing of footways and pavements adjoining any premises;

"The removal of house refuse from any premises;

"The cleansing of earthclosets, privies, ashpits, and cesspools belonging to any premises;

"they may make byelaws imposing the duty of such cleansing or removal, at such intervals as they think fit, on the occupier of any such premises."

On reference to section 42 it will be seen that every Local Authority may, and when required by order of the Local Government Board shall, themselves, undertake or contract for the removal of house refuse from premises, and the cleansing of earthclosets, privies, ashpits, and cesspools, either for the whole or any part of their district. Moreover, every Urban Authority, and any Rural Authority invested by the Local Government Board with the requisite powers may, and when required by order of the Board shall, themselves, undertake or contract for the proper cleansing of streets. Action of local authority under s. 42.

In such cases the necessity for byelaws under the first part of section 44 ceases.

With regard to the scope of byelaws under that enactment, it should be observed that the byelaws must be limited to imposing upon the occupier the duty of cleansing or removal, at such intervals as the Sanitary Authority may think fit. The mode of cleansing or removal, and the precautions to be Scope of these bye-laws.

observed in connection with the process are not matters within the range of such byelaws.

JOHN LAMBERT,
Secretary.

Local Government Board,
25th July, 1877.

In connection with the foregoing memorandum, attention may be directed to the following explanatory notes :

Authorities competent to make the byelaws.—It will be seen that it is only "where the local authority do not themselves undertake or contract for" the work, that the authority can make byelaws imposing on occupiers the duties of cleansing and removal referred to in so much of s. 44 of the Public Health Act, 1875, as is cited in the memorandum. It would seem that if any duty in connection with the removal of house refuse is undertaken by the local authority (even though they only remove such refuse when placed by the occupiers outside their houses), no byelaw on the subject can be made by them under this section. If they perform any part of the work referred to as "the cleansing of earthclosets, privies, ashpits, and cesspools," it is considered that they cannot by means of byelaws make it the duty of occupiers to do any other part of that work. Supposing, therefore, that the local authority undertake the removal of the contents of earthclosets and privies, they cannot, on this view, make a byelaw requiring the occupiers to cleanse cesspools, at any rate in that portion of their district in which the cleansing of earthclosets and privies is performed by them. Where, also, the cleansing of ashpits is performed by the local authority, they cannot, apparently make byelaws as to the cleansing of earthclosets, etc.

The local authority cannot make byelaws under the above-cited enactment in the Public Health Act, 1875, if, by operation of any local Act, ss. 87 to 98 of the Towns Improvement Clauses Act, 1847, are in force in the district. In the case of any district which, though outside the county of London, is within the metropolitan police district, it would seem that the model clauses 1, 5, 6, and 8 of the annexed series must be omitted (see the Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), s. 60, and the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142 (2) (*a*)).

Subject to the above, these byelaws can be made by any urban district council, with respect to the whole, or to any portion of their district which can be clearly described in the byelaws by reference to a known and defined boundary, and by any rural district council with respect to their district generally, or to any particular contributory place or places therein.

By s. 229 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), the following areas situated in a rural district shall be contributory places for the purposes of that Act ; that is to say,

"(1.) Every parish not having any part of its area within the limits of a special drainage district formed in pursuance of the Sanitary Acts or of this Act, or of an urban district ; and

"(2.) Every such special drainage district as aforesaid ; and

"(3.) In the case of a parish wholly situated in a rural district, and part of which forms or is part of any such special drainage district as aforesaid, such portion of that parish as is not comprised within such special drainage district ; and

"(4.) In the case of a parish a part of which is situated within an urban district, such portion of that parish as is not comprised within such urban district, or within any such special drainage district as aforesaid."

Action under s. 42 to be considered.—In all cases, before making byelaws under the first part of s. 44 (the part cited in the memorandum), it will be desirable for the local authority to take into consideration the question whether the work of cleansing or removal can be properly performed by occupiers as frequently as is necessary with a due regard to health. In urban or semi-urban localities, where houses are numerous, and the garden plots attached to them very small, this may be extremely difficult; and the local authority may be advised rather to undertake or contract for the work under s. 42, than to rely on the powers obtainable by means of byelaws. It may, in fact, be expected that whenever byelaws as to these matters are submitted to the Local Government Board, they will, before approving of the proposed byelaws, consider whether the circumstances of the district are such as to make it advisable that the work should be done by the local authority themselves.

Scope of the byelaws.—The mode of cleansing or removal, and the precautions to be taken in connection with the process, fall, to some extent, within the scope of the model series as to nuisances. (See pp. 29 *et seq.*). These matters, therefore, should be excluded from any series made under the first part of s. 44 of the Act.

Byelaws under Public Health Acts Amendment Act, 1890.—Where, by reason of their undertaking or contracting for the removal of house refuse, the local authority are precluded from making byelaws on the subject under s. 44 of the Public Health Act, 1875, they may, under s. 26 (2) of the Public Health Acts Amendment Act, 1890, make other byelaws "imposing on the occupier of any premises duties in connection with such removal so as to facilitate the work" which they undertake or contract for. And under s. 9 of this Act all the provisions with respect to byelaws contained in ss. 182—186 of the Public Health Act, 1875, and any enactment extending or amending those sections will apply to such byelaws.

SERIES I.—SCAVENGING.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for draft forms on which to submit the byelaws for the Board's preliminary approval before they are adopted by the local authority.*]

BYELAWS

MADE BY THE * WITH RESPECT TO THE CLEANSING OF FOOTWAYS AND PAVEMENTS, THE REMOVAL OF HOUSE REFUSE, AND THE CLEANSING OF EARTHCLOSETS, PRIVIES, ASHPITS, AND CESSPOOLS IN † .

The cleansing of footways and pavements adjoining any premises.

Cleansing of footways and pavements.

1. The occupier of any premises fronting, adjoining, or abutting on any street shall, once at least in *every day*, Sundays excepted, cleanse the footways and pavements adjoining such premises.

Cleansing of footways, etc.—The provision in s. 44 of the Public Health Act, 1875, authorising the making of this byelaw refers to the cleansing of footways and pavements "adjoining *any* premises"; but the power to make the byelaw being dependent on the local authority not undertaking or contracting for the work referred to, and the enactment in s. 42 being one as to the proper cleansing "of streets," the model clause is limited to footways and pavements adjoining premises fronting, etc., any street. "Street" in these byelaws has the same meaning as in the statute (see s. 4). For the words, "once at least in every day, Sundays excepted," other words requiring less frequent cleansing may be substituted; but if this is done, the words inserted should be such as to ensure that the work will be performed at regular intervals.

"**Occupier.**"—This term is not defined in the Public Health Acts, and cannot be defined by the byelaws. Who, in any particular case, is the legal occupier is a question to be determined, in the first instance, by the justices before whom any proceedings are taken for the enforcement of

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* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or*, "Urban [*or* Rural] District Council of "; *as the case may be.*

† *Insert name of borough or urban or rural district or, if the byelaws are to apply to part only of a rural district,* "that portion of the Rural District of which comprises the contributory places of "; *as the case may be.*

the byelaw. Outside the metropolitan police district, the owner of empty or unoccupied premises cannot be made liable, as he would be within that area under s. 60 (6) of the Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47).

Places within the metropolitan police district.—This clause must be omitted where the byelaws are made for a place which, though outside the county of London, is within the metropolitan police district. (See the Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), s. 60 (6), and the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142 (2) (*a*).) In the county of London the subject is provided for by s. 29 of the last-mentioned Act.

The removal of house refuse from any premises.

Removal of house refuse.

2. The occupier of any premises shall, once at least in *every week*, remove the house refuse from such premises.

Removal of house refuse.—It will be observed that s. 44 of the Public Health Act, 1875, refers to "the removal of house refuse from premises" as well as to "the cleansing of . . . ashpits . . . belonging to any premises." Accordingly the model series deals with the two matters separately. (*Cf.* clause No. 7.) But it is important that, as regards the period prescribed, the two clauses should agree. If, therefore, any alteration is made in this clause affecting the period of removal, a corresponding alteration should be made in clause 7. The two clauses do not exactly cover the same ground, as No. 2 requires the "removal" of house refuse from premises, while No. 7 refers to the "cleansing" of ashpits.

A weekly removal of house refuse is probably suggested by the provision in s. 43 of the Public Health Act, 1875. But the model byelaws aim consistently at securing a twofold object—the greatest practicable frequency of removal of all filth, and the limitation of the capacity of the receptacles in which filth may be stored in proximity to houses. Sir John Simon, K.C.B., F.R.S.,* in a Supplementary Report on Filth Diseases, etc., presented by him in 1874, assumes that the dustheap of every household contains more or less of decomposing organic matter; and he urges that "scavenging arrangements in relation to house refuse . . . must . . . be framed with special reference to the fact that such refuse soon becomes highly offensive."

What is "house refuse."—House refuse does not extend to dust and ashes, the exclusive produce of manufactories (*Lyndon* v. *Standbridge* (1857), 26 L. J. Ex. 386; 2 H. & N. 45; 29 L. T. (o.s.) 111; and see *Law* v. *Dodd* (1848), 17 L. J. M. C. 65; 1 Ex. 845; 10 L. T. (o.s.) 286, 309). Ashes arising from coals burnt in the furnace of a steam engine used for the purpose of sawing and lifting timber and other materials for carrying on the business of a pianoforte manufacturer, were held not to be house refuse in *Gay* v. *Cadby* (1877), 2 C. P. D. 391; 46 L. J. M. C. 260; 36 L. T. (N.S.) 410; 41 J. P. 503. The local authority under an order of the Local Government Board are bound to remove refuse from a workhouse, even though such workhouse may by a local Act be rated at a less amount than other property in the parish or district (*Holborn Union* (*Guardians of*) v. *St Leonard's* (*Vestry of*), *Shoreditch* (1876), 2 Q. B. D. 145; 46 L. J. Q. B. 36; 35 L. T. (N.S.) 400; 24 W. R. 40; 40 J. P. 740).

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* Formerly medical officer of the Privy Council and Local Government Board.

House refuse probably does not include articles improperly placed in a dustbin, such as "broken glass, shoes, and other things which it might not be convenient otherwise to get rid of." Where such articles were removed, and were afterwards abstracted by the servants of a metropolitan vestry, it was held that the contractor for the removal of the house refuse was not entitled to compensation in respect of them (*Collins* v. *Paddington (Vestry of)* (1879), 48 L. J. Q. B. 345 ; 40 L. T. (N.S.) 843 ; 27 W. R. 504 ; 43 J. P. 367).

A police magistrate acting under 18 & 19 Vict. c. 120, s. 129, decided that certain ashes from the furnaces of a hotel were not "refuse of trade" within this section, and declined to state a case on the ground that his decision was by the section final and conclusive, and that no point of law arose. It was held that there was a point of law involved, and the magistrate was required to state a case (*Reg.* v. *Bridge* (1890), 24 Q. B. D. 609 ; 59 L. J. M. C. 49 ; 62 L. T. (N.S.) 297 ; 38 W. R. 464 ; 54 J. P. 629). On a case being stated, it appeared that the appellants had refused to remove from the respondent's hotel, unless paid a reasonable sum for so doing, the ashes and clinkers produced in the furnaces of boilers used to generate steam for supplying power for the electric lighting of the respondent's hotel, for heating the public rooms and passages, for cooking, and for working the lift and pumping water. It was held that the ashes and clinkers were domestic refuse, and not the refuse of a trade manufacture or business (*St. Martin's Vestry* v. *Gordon* (1890), 59 L. J. M. C. 131 ; 62 L. T. (N.S.) 835 ; 54 J. P. 791 ; 6 T. L. R. 358 ; affirmed in C. A., [1891] 1 Q. B. 61 ; 60 L. J. M. C. 37; 64 L. T. (N.S.) 243 ; 39 W. R. 295 ; 55 J. P. 437 ; 7 T. L. R. 71). On the other hand, clinkers from the boilers of a steam laundry were held not to be house refuse in *London and Provincial Laundry Co.* v. *Willesden Local Board*, [1892] 2 Q. B. 271 ; 67 L. T. (N.S.) 499 ; 40 W. R. 557 ; 56 J. P. 696.

Byelaws under s. 26 (2), Public Health Acts Amendment Act, 1890.—Although, if the local authority undertake any duty in connection with the removal of house refuse, they cannot include this byelaw in any series made by them under s. 44 of the Public Health Act, 1875, they are empowered by s. 26 (2), of the Public Health Acts Amendment Act, 1890, where that enactment is in force, to make byelaws "imposing on the occupier of any premises duties in connection with such removal, so as to facilitate the work" of collection. But even where no such byelaws have been made, an occupier wilfully obstructing the scavengers of the local authority renders himself liable to penalties under s. 306 of the Public Health Act, 1875, and actual violence is not necessary to constitute wilful obstruction. (*Cf. Borrow* v. *Howland* (1896), 74 L. T. 787 ; 60 J. P. 391 ; 12 T. L. R. 414.) As previously mentioned, it is considered that the local authority cannot adopt the model clause 2 of this series, even where the action of the authority is limited to the removal of the house refuse when placed in tubs, etc., upon the pavements for the purpose ; but where this arrangement obtains, and the model series as to nuisances is adopted, the proviso suggested on p. 34 should be added to clause 4 of the latter series.

The cleansing of earthclosets, privies, ashpits, and cesspools belonging to any premises.

Cleansing of earthclosets with "fixed receptacles."

3. The occupier of any premises shall, once at least in *every three months*, cleanse every earthcloset belonging to such premises and furnished with a fixed receptacle for fæcal matter

and with suitable means or apparatus for the frequent and effectual application of dry earth to such matter.

4. The occupier of any premises shall, once at least in *every week*, cleanse every earthcloset belonging to such premises and furnished with a movable receptacle for fæcal matter and with suitable means or apparatus for the frequent and effectual application of dry earth to such matter.

Cleansing of earth-closets with "movable receptacles."

Earthclosets, etc., recognised by the Act.—It should be clearly understood that earthclosets and privies in connection with buildings can be regulated, but not prohibited, by means of byelaws. The statute recognises these forms of privy accommodation, and as regards earthclosets, provides that enactments requiring the construction of waterclosets shall be deemed to be satisfied by the construction, with the approval of the local authority, of an earthcloset. (See ss. 35—37 of the Public Health Act, 1875.) The fact, therefore, that waterclosets may be in general use in their district, should not be regarded by the local authority as a reason for not including in their byelaws provisions as to earthclosets and privies. In connection with this it may also be mentioned that the local authority cannot, under s. 36, lay down any general rule requiring waterclosets to be substituted for privies throughout their district. They are bound to exercise their discretion in each particular case (*Wood* v. *Widnes Corporation*, [1898] Q. B. 463 ; 62 J. P. 117; *Robinson* v. *Sunderland (Mayor of)* (1898), 62 J. P. 216 ; *Tinkler* v. *Wandsworth District Board of Works* (1858), 27 L. J. Ch. 342 ; 2 De G. & J. 261 ; 30 L. J. (o.s.) 146 ; 22 J. P. 223). Consequently a notice in accordance with a general resolution, and requiring compliance with its provisions is invalid (*ibid*). But when the local authority have decided that the existing accommodation is insufficient, they have power to order what works shall be done as each "case may require." Where they do the work and recover the amount before the justices, the justices administerially cannot take into their consideration whether the accommodation existing before the notice was sufficient or not (*Sherborne Local Board* v. *Bogle* (1880), 46 J. P. 675 ; *St. Luke's Vestry* v. *Lewis* (1862), 1 B. &. S. 865 ; 31 L. J. M. C. 73 ; 5 L. T. (N.S.) 608 ; 26 J. P. 262). The only method of questioning the decision of the local authority is by appeal to the Local Government Board under s. 268 of the Public Health Act, 1875.

What constitutes an earthcloset.—Without referring particularly to the different kinds of closet which may be classed under the head of "earth-closet," it may be observed that s. 37 of the Act defines the term as including "any place for the reception and deodorization of fæcal matter constructed to the satisfaction of the local authority." Proper means or apparatus for the application of a deodorant to the fæces are a necessary feature of an earth-closet for the purposes of these byelaws, and a necessary condition of the retention of excremental matter in the closet for the time allowed by the byelaws. Clauses 3 and 4 deal respectively with the two classes into which earthclosets (whatever the special nature of their construction) may be divided, viz., earthclosets with fixed receptacles, and those with movable receptacles. By an "earthcloset with a fixed receptacle" is meant one in which excreta and dry earth, or other deodorizing substance, are deposited on the bottom or floor of a chamber or space beneath the seat. The "movable receptacle" referred to in clause 4 is, of course, a pail or other like convenience

for receiving the filth which falls through the aperture in the seat. The construction of earthclosets is regulated, where the model series as to streets and buildings is in force, by clauses 67, 68, and 70—72 of that series (*post*).

Periods of cleansing.—The object aimed at in clause 4 of the present series, as well as in a clause (No. 73A in the series as to streets and buildings, p. 186) dealing with the limitation of size of the movable receptacles in the case of earthclosets, is facility of handling. If accumulations of more than one week are allowed, the pails become too heavy for the scavengers to manage easily. Larger accumulations may be regarded as perfectly safe from a sanitary point of view in the case of properly constructed closets in which dry earth is used. But, for practical purposes, the limit for the retention of excreta in an earthcloset may be said to be reached at the end of every three months, or every week if the receptacle is intended to be removed for cleansing.

Supply of deodorants.—The local authority may themselves undertake or contract for the supply to houses of dry earth or other deodorizing substance for use in connection with earthclosets (s. 37 of the Public Health Act, 1875). As to the most suitable deodorant for this purpose, it should be mentioned that chalk, sand, and gravel are practically valueless. Loamy surface soil, vegetable mould, brick earth of the drift, or clay, when dried, are all suitable. If, however, heat is used in the drying process, care must be taken that too high a temperature is not reached, as this will destroy the microbic life in the soil. Ashes are not an efficient substitute for dry earth, and should not be recognised as such.

Cleansing of privies with "fixed receptacles."

5. The occupier of any premises shall, once at least in *every week*, cleanse every privy belonging to such premises and furnished with a fixed receptacle for fæcal matter.

Cleansing of privies with "movable receptacles."

6. The occupier of any premises shall, once at least in *every week*, cleanse every privy belonging to such premises and furnished with a movable receptacle for fæcal matter.

Cleansing of privies.—It will be seen that the model byelaws divide "privies," as well as earthclosets, into two main categories—those having fixed receptacles for filth, and those having movable receptacles. As to what is meant by the terms "fixed receptacle" and "movable receptacle," see note on clauses 3 and 4. The byelaws in effect further distinguish between privies constructed in connection with ashpits and those not so constructed (see clauses 7 and 8). But for the purposes of cleansing no distinction is made; a weekly cleansing being suggested in each case. Inconvenience might be found to be occasioned if the periods of cleansing prescribed by clauses 2 and 5—8 did not agree, and for purposes of health it is most important that weekly cleansing at least should be adhered to in the case of privies. The structure of privies and their position in relation to buildings, etc., are intended to be regulated by clauses 73 to 79 of the model series with respect to new streets and buildings (*post*).

Places within the metropolitan police district.—It would seem that these two clauses should be omitted where the byelaws are made for any place within the metropolitan police district (see 2 & 3 Vict. c. 47, s. 60).

7. The occupier of any premises shall, once at least in *every week*, cleanse every ashpit belonging to such premises and used only as a receptacle for ashes, dust, and dry refuse. Cleansing of ashpits not connected with privies.

8. The occupier of any premises shall, once at least in *every week*, cleanse every ashpit belonging to such premises and used in connection with a privy as a receptacle for fæcal matter, together with ashes, dust, and dry refuse. Cleansing of ashpits in connexion with privies.

What is an ashpit.—The term "ashpit" is not defined in the Public Health Act, 1875; but by s. 11 (1) of the Public Health Acts Amendment Act, 1890, it is defined as including any ashtub or other receptacle for the deposit of ashes, fæcal matter, or refuse. The model byelaws treats ashpits as of two kinds,—one in which the ashpit is used only for the reception of ashes, dust, and dry refuse, and the other where it is connected with a privy and receives fæcal matter as well as ashes, etc.

As to the construction, etc., of ashpits, see clauses 80—85, of the series relating to new streets and buildings (*post*).

Places within the metropolitan police district.—Clause No. 8 must be omitted where the byelaws are made for a place within the metropolitan police district (see 2 & 3 Vict. c. 47, s. 60).

9. The occupier of any premises shall, once at least in every *three months*, cleanse every cesspool belonging to such premises. Cleansing of cesspools.

Cesspools.—Cesspool drainage cannot be prevented except with regard to new buildings in an urban district where there is a public sewer within one hundred feet of the house (ss. 23, 25 of the Act). The model byelaws, therefore, are concerned with the proper construction of such means of drainage and their regular cleansing in such a way as to prevent nuisance. (*Cf.* clauses 4 to 6 of the series as to nuisances (pp. 33 *et seq.*), and clauses 86 to 89 of the model byelaws relating to new streets and buildings (pp. 33 *et seq.*). Wherever possible the contents of cesspools should be pumped direct from the receptacle into a properly constructed iron tank-cart, preferably by means of a pneumatic pump and hose. By this means the offensiveness of the operation can be reduced to a minimum.

Penalties.

10. Every person who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of :

Provided nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment as a penalty of any sum less than the full amount of the penalty imposed by this byelaw. Penalties.

Amount of penalty.—Any sum not exceeding "*five pounds*" may be inserted here. The proviso to the clause must be retained in all cases (see s. 183 of the Public Health Act, 1875).

Recovery of penalty.—As to the recovery of penalties, see s. 251 of the Public Health Act, 1875, and notes thereto, in Lumley's Public Health, 5th ed. p. 333.

Repeal of Byelaws.

11. From and after the date of the confirmation of these byelaws, the byelaws relating to the cleansing of footways and pavements, the removal of house refuse, and the cleansing of earthclosets, privies, ashpits and cesspools, which were made by the on the day of in the year and which were confirmed by [one of Her Majesty's Principal Secretaries of State] [the Local Government Board] on the day of in the year one thousand eight hundred and , shall be repealed.

Repeal.—The above clause should be added to the series, if there are any byelaws in force as to the cleansing of footways and pavements, the removal of house refuse, and the cleansing of earthclosets, etc., and the district council are desirous of repealing such byelaws. It is presumably considered by the Local Government Board to be unnecessary in these cases to expressly provide that the repeal shall not affect anything done or suffered, or any obligation or liability accrued or incurred under any byelaw repealed. The only exception to the rule appears to be series iv. (new streets and buildings), the repeal clause of which contains a saving of this kind, although it is of limited application.

SERIES II.

NUISANCES.

NUISANCES.

MEMORANDUM.

By section 44 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), it is provided that— 38 & 39 Vict. c. 55, s. 44.

"An Urban Authority may . . . make byelaws for the prevention of nuisances arising from snow filth, dust, ashes, and rubbish, and for the prevention of the keeping of animals on any premises so as to be injurious to health."

In connection with the last clause of the byelaw numbered 12 in the model series, the attention of the Sanitary Authority should be directed to the provisions of section 50 of the 38 & 39 Vict. c. 55. 38 & 39 Vict. c. 55, s. 50.

That section is in the following terms:

> "Notice may be given by any Urban Authority (by public announcement in the district or otherwise), for the periodical removal of manure or other refuse matter from mews, stables, or other premises; and, where any such notice has been given, any person to whom the manure or other refuse matter belongs, who fails so to remove the same, or permits a further accumulation, and does not continue such periodical removal at such intervals as the Urban Authority direct, shall be liable without further notice to a penalty not exceeding twenty shillings for each day during which such manure or other refuse matter is permitted to accumulate."

In cases where the Sanitary Authority give the notice to which the above-quoted enactment refers, it will not be necessary to incorporate in any byelaws which they may make for the prevention of nuisances, under section 44, a provision such as that contained in the last clause of the byelaw numbered 12.

JOHN LAMBERT,
Secretary.

Local Government Board,
25th July, 1877.

Authorities empowered to make the byelaws.—It will be observed that the section only confers power to make byelaws as to nuisances upon the

district councils of urban districts. If a rural district council desire to make such byelaws, they must first be invested with the powers of an urban district council under this section by means of an order of the Local Government Board under s. 276 of the Public Health Act, 1875.* It should also be noticed that where, by virtue of the provisions of any local Act, s. 98 of the Towns Improvement Clauses Act, 1847, is in force in the district, the district council cannot include in any byelaws made by them the model clauses 4A and 6 ; and that byelaws made for a place which, though outside the county of London, is within the metropolitan police district, must not include the second and third paragraphs of clause 4, the second paragraph of clause 5, or any part of clauses 4A and 6. Probably clauses 1 to 3 should also be omitted in such a case. See the Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47, s. 60), and the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142 (2) (*a*).

"**Filth.**"—The expression "filth" is not defined in the Act, and no attempt should be made, as a rule, to define it in the byelaws ; but the byelaws may contain provisions relating to specific kinds of filth, liquid or solid, and it may be pointed out that the term does not appear to be limited to fæcal matter, human or animal.† The model byelaws, however, are in sufficiently general terms to cover all such cases as, under ordinary circumstances, the district council will have to provide for.

Byelaws under Public Health Acts Amendment Act, 1890.—Under s. 26 (1) of this Act, an urban district council are empowered, if they have adopted Part III., to make byelaws in respect of the following matters, namely,

"(*a.*) For prescribing the times for the removal or carriage through the streets of any fæcal or offensive or noxious matter or liquid, whether such matter or liquid shall be in course of removal or carriage from within or without or through their district :

"(*b.*) For providing that the vessel, receptacle, cart, or carriage used therefor shall be properly constructed and covered so as to prevent the escape of any such matter or liquid :

"(*c.*) For compelling the cleansing of any place whereon such matter or liquid shall have been dropped or spilt in such removal or carriage."

And by s. 9 of the same Act, all the provisions with respect to byelaws contained in ss. 182—186 of the Public Health Act, 1875, and any enactment amending or extending those sections will apply to such byelaws.

It is usual to make a separate series as to these matters ; but if the district council prefer to embody such byelaws in a series based on the model byelaws as to nuisances, the clauses should be inserted under a separate heading, immediately after the model clause 12.

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* See the instructions contained in the Introduction.

† *Cf.* s. 49 of this Act.

SERIES II.—NUISANCES.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for draft forms on which to submit the byelaws for the Board's preliminary approval, before they are adopted by the local authority.*]

BYELAWS

MADE BY THE* WITH RESPECT TO NUISANCES IN THE† .

Interpretation of Terms.

1. Throughout these byelaws, the expression "the Council," means the* , and the expression, "the District," means the† . Interpretation.

Interpretation.—This clause should be inserted, although it does not at present form part of the model series as printed. The following clauses should be renumbered.

For the prevention of nuisances arising from snow, filth, dust, ashes, and rubbish, and for the prevention of the keeping of animals on any premises so as to be injurious to health.

1. The occupier of any premises fronting, adjoining, or abutting on any street shall, as soon as conveniently may be after the cessation of any fall of snow, remove or cause to be removed from the footways and pavements adjoining such premises all snow fallen or accumulated on such footways and pavements in such a manner and with such precautions as will prevent any undue accumulation in any channel or carriageway or upon any paved crossing. Snow on footways.

2. Every person who shall remove any snow from any premises shall deposit the same in such a manner and with Snow removed from premises.

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* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or*, "Urban [*or* Rural] District Council of "; *as the case may be.*

† *Insert name of borough or urban or rural district, or, if the byelaws are to apply to part only of a rural district,* "that portion of the Rural District of which comprises the contributory places of "; *as the case may be.*

such precautions as to prevent any undue accumulation thereof in any channel or carriageway or upon any paved crossing.

If in the process of such removal any snow be deposited upon any footway or pavement, he shall forthwith remove such snow from such footway or pavement.

Use of salt for removal of snow.

3. Every person who, for the purpose of facilitating the removal of any snow from any footway or pavement, shall throw salt upon such snow shall forthwith effectually remove from such footway or pavement the whole of the deposit resulting from the mixture of the salt with the snow.

Nuisances from snow.—Clauses 1 to 3 of the present series deal with "nuisances arising from snow," the first of the three kinds of nuisances referred to in the second paragraph of s. 44 of the Public Health Act, 1875. Clause 1 imposes on occupiers the duty of removing snow from the footways and pavements adjoining their premises, and requires that the snow cleared off the footways, etc. shall not be shovelled into any channel or carriageway, or upon any paved crossing, so as to obstruct vehicular traffic, incommode pedestrians, or prevent the water draining away in case of a thaw. The second clause requires similar precautions to be taken in the removal of snow from premises, and provides for the proper cleansing of the footways if snow is dropped thereon in the process of removal; and clause 3 deals with the nuisance to foot passengers caused by the use of salt for the purpose of removing snow from the footways. The extreme cold resulting from the mixture of salt with snow in certain proportions, and the difficulty experienced in drying leather boots which have become wetted with this mixture, not to speak of the increased risks of danger to health which would arise to foot passengers on this account, may be suggested as sufficient reasons for inserting the byelaw. When a tramway company in Scotland, after a heavy fall of snow, cleared their track by means of a snow plough and heaped up the snow upon the sides of the streets: they then scattered salt upon the rails and in the vicinity, and the town council did not take any immediate steps to remove the briny slush so produced, and it was left upon the streets, it was held by the House of Lords that a legal nuisance had been committed which was not sanctioned by either the special or the general Tramways Acts, and that the default, if any, of the town council did not affect the primary liability of the tramway company (*Ogston* v. *Aberdeen District Tramways Co.*, [1897] A. C. 111; 61 J. P. 436; 66 L. J. (P.C. 1); 75 L. T. 633; 13 T. L. R. 123. *Per* Lord HALSBURY, L.C.: "If the question had arisen in England, I think some doubt might be entertained whether the obstruction as proved was such that a private person could sue without further proof of peculiar damage to himself; but that question does not arise according to the law of Scotland"). Clause 1, it will be noticed, refers only to footways adjoining premises which front, etc. on "streets"; (*i.e.*, streets as defined by s. 4 of the Public Health Act, 1875), but clauses 2 and 3 apply to "any footway or pavement."

As regards the roadway, the urban authority are themselves bound, as being the highway authority, to remove snow in accordance with s. 26 of the Highways Act, 1835 (5 & 6 Will. 4, c. 50) which enacts that if any impediment or obstruction shall arise in any highways from accumulation of

snow, the surveyor (*i.e.*, the urban authority in an urban district) is required from time to time, and within twenty-four hours after notice thereof from any justice of the peace of the county in which the parish (*i.e.*, the urban district) may be situate, to cause the same to be removed. Failure to comply with such notice will render the urban authority liable under s. 20 of the same Act to a penalty of five pounds.*

The cost of removing snow so as to render a main road passable is an expense of maintenance towards which the county council are bound under s. 11 of the Local Government Act, 1888 (51 & 52 Vict. c. 41) to contribute where such main road has been retained by the urban authority under that section (*Amesbury Union* v. *Wiltshire JJ.* (1883), 10 Q. B. D. 480; 52 L. J. M. C. 64; 31 W. R. 521; 47 J. P. 184).

Places within the metropolitan police district.—It is, at least, doubtful whether these model clauses 1 to 3 can be included in byelaws made for any place within the metropolitan police district, although not within the county of London. (See the Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), s. 60 (6), and the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142 (2) (*a*).) In the county of London the subject is provided for by s. 29 of the last-mentioned Act. Section 29 of this Act, which imposes on the sanitary authorities of London the duty of removing street refuse from the streets within their respective districts, does not give any right of action to a person suffering special damage from a breach of such duty (*Saunders* v. *Holborn District Board of Works*, [1895] 1 Q. B. 64; 64 L. J. Q. B. 101; 71 L. T. 519; 43 W. R. 26; 59 J. P. 453; 15 R. 25).

Removal of filth, etc. from premises.

4. The occupier of any premises who shall remove or cause to be removed, any filth, dust, ashes, or rubbish produced upon his premises shall not, in the process of removal, deposit such filth, dust, ashes, or rubbish, or cause or allow such filth, dust, ashes, or rubbish to be deposited upon any footway, pavement, or carriageway.

For the purpose of such removal, he shall in every case use or cause to be used a suitable vessel or receptacle, cart, or carriage properly constructed and furnished with a sufficient covering so as to prevent the escape of the contents thereof.

If in the process of such removal, any person shall slop or spill or cause or allow to fall upon any footway, pavement, or carriageway any such filth, dust, ashes, or rubbish, he shall forthwith remove such filth, dust, ashes, or rubbish from the place whereon the same may have been slopped or spilled or may have fallen, and shall immediately thereafter thoroughly sweep or otherwise thoroughly cleanse such place.

Removal of filth, etc., from premises.—Clauses 4 to 9 are concerned with the second category of nuisances referred to in the latter part of s. 44,

* With regard to the application of these enactments to a rural district, see s. 25 (1) of the Local Government Act, 1894 (56 & 57 Vict. c. 73).

viz., those arising from "filth, dust, ashes, and rubbish." As to the term "filth," reference may be made to the note on p. 30. Clause 4 makes occupiers responsible for the removal of house refuse, the contents of privies, or any other filth, rubbish, etc., from their premises, in such a manner as to prevent the fouling or littering of the streets and roads with offensive matter, and the nuisance which may be occasioned (*e.g.*) by the deposit, even for a few minutes, of a privy pail on the road or footway, instead of placing it, or its contents, at once in the scavenger's cart. The byelaw should not be regarded as unnecessary where the district council, under s. 42, undertake or contract for the removal of filth and refuse ; for even in such cases the occupier has the right of disposing of the refuse and excremental matters produced upon his premises for his own use and profit. The third paragraph of the clause provides for the accidental stopping of the footway or roadway by men employed by an occupier to remove filth or refuse from his premises.

Proviso as to ashtubs.—The addition to the byelaw of the following proviso has been approved by the Local Government Board in certain cases where it is usual for occupiers to place their ashtubs on the edge of the footway to be emptied by the public scavenger on his rounds :

Deposit of ashtubs on footway, etc.

Provided always that the foregoing requirements shall not be deemed to prohibit the deposit upon the outer edge of any footway or pavement, at any time between the hours of and o'clock in the forenoon of any day, of a proper receptacle containing dust, ashes, or rubbish, to be removed by a scavenger employed by the Council.

Byelaws under 53 & 54 Vict. c. 59.—In this connection, it may be pointed out that where s. 26 (2) of the Public Health Acts Amendment Act, 1890, is in force * and the district council themselves undertake or contract for the removal of house refuse, they may make byelaws "imposing on the occupier of any premises, duties in connection with such removal, so as to facilitate the work" of removal. But even where no such byelaws have been made, an occupier wilfully obstructing the scavengers of the local authority renders himself liable to penalties under s. 306 of the Public Health Act, 1875, and actual violence is not necessary to constitute wilful obstruction (*Borrow* v. *Howland* (1896), 74 L. T. 787 ; 60 J. P. 391 ; 12 T. L. R. 414).

Places within the metropolitan police district.—The second and third paragraphs of clause 4 of the model series must be omitted in the case of any place within the metropolitan police district, and the district council will not, in any such case, be empowered to make byelaws under s. 26 (2) of the Act of 1890.

Cleansing of privies, etc. between certain hours.

4a. The occupier of any premises within the distance of *twenty yards* from any street or from any building or premises used wholly or partly for human habitation, or as a school, or as a place of public worship, or of public resort or public

* See ss. 3 and 5 of the Act.

assembly, or from any building in or on which any person may be employed in any manufacture, trade, or business, shall not, without reasonable excuse, empty or cleanse or cause to be emptied or cleansed any privy, cesspool, or other receptacle for filth belonging to his premises, or provided for use in, or in connection with such premises, or remove or cause to be removed from such privy, cesspool, or receptacle, or from such premises, any part of the contents of such privy, cesspool, or receptacle, at any time except between the hours of *six* o'clock and *halfpast eight* o'clock in the forenoon, during the months of March, April, May, June, July, August, September, and October, and except between the hours of *seven* o'clock and *halfpast nine* o'clock in the forenoon, during the months of November, December, January, and February.

Hours for cleansing of privies, etc.—Prints of this clause, which does not form part of the model series as issued in 1877, can be obtained from the Local Government Board on application. As will be seen, it is designed to so regulate the hours within which receptacles for excremental and other filth may be emptied or cleansed, and the contents removed, as to ensure that the work shall not be done under cover of darkness. Apart from other considerations, the attention of local authorities cannot be too strongly drawn to the danger of allowing scavenging to be done at any hour when the light is insufficient to enable the men to do it properly, or to secure the most careful supervision of their operations. It will be observed that in this and other clauses of the model series, churches, schools, factories, etc., are placed in the same category with dwelling-houses, as regards the precautions to be taken against nuisances arising from filth. The principle recognised is that there should be no avoidable risk of air pollution where growing childen are concerned, or where persons are congregated in confined spaces, or spend any considerable portion of their time in a heated or confined atmosphere.

Places within the metropolitan police district, etc.—This byelaw must be omitted where a place is within the metropolitan police district, although not within the county of London (see the Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), s. 60 (4), and the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142 (2) (*a*)), or where s. 98 of the Towns Improvement Clauses Act, 1847, is in operation.

Removal of filth, etc. from premises or carts.

5. Every person who, for the purpose of depositing any filth, dust, ashes, or rubbish upon any lands or premises, or for the purpose of depositing any dust, ashes, or rubbish in any receptacle provided by the [Council] for the temporary deposit and collection of dust, ashes, and rubbish, shall remove such filth, dust, ashes, or rubbish from any premises, or from any cart, carriage, or other means of conveyance across or along any footway, pavement, or carriageway, shall use a suitable vessel or receptacle properly constructed and furnished with a sufficient covering so as to prevent the escape of the contents

thereof; and shall adopt such other precautions as may be necessary to prevent any such filth, dust, ashes, or rubbish from being slopped or spilled, or from falling in the process of removal upon such footway, pavement, or carriageway.

If in the process of such removal, any such filth, dust, ashes, or rubbish be slopped or spilled or fall upon such footway, pavement, or carriageway, he shall forthwith remove such filth, dust, ashes, or rubbish from the place whereon the same may have been slopped or spilled or may have fallen, and shall immediately thereafter thoroughly sweep or otherwise thoroughly cleanse such place.

Removal of filth, etc., from premises or carts.—This clause provides against the slopping or spilling in the streets of filth or refuse which is being removed from premises or from the scavenger's cart, to be deposited (*e.g.*) at the "town's wharf," or on a farm ; or of any dust, ashes, or rubbish which is being so removed for deposit in a receptacle such as may be provided by an urban district council under s. 45 of the Public Health Act, 1875. The byelaw is applicable whether the work of removal is performed by the occupier or by a contractor under s. 42 of the Act.

Provision of receptacles by the council.—By s. 45 of the Public Health Act, 1875, it is enacted that any urban authority may, if they see fit, provide in proper and convenient situations receptacles for the temporary deposit and collection of dust, ashes, and rubbish.

Places within the metropolitan police district.—In the case of any place within the metropolitan police district, although outside the county of London, the second paragraph of clause 5 must be omitted (see the Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), s. 60 (4), and the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142 (2) (*a*)).

Conveyance of filth, etc. through the streets.

6. Every person who shall convey any filth, dust, ashes, or rubbish through or along any street shall use a cart, carriage, or other means of conveyance properly constructed and furnished with a sufficient covering so as to prevent the escape of the contents thereof.

If in the process of such conveyance any such filth, dust, ashes, or rubbish be slopped or spilled, or fall upon any carriageway or elsewhere in such street, he shall forthwith remove such filth, dust, ashes, or rubbish from the place whereon the same may have been slopped or spilled or may have fallen, and shall immediately thereafter thoroughly sweep or otherwise thoroughly cleanse such place.

Construction of night soil and dust carts.—By means of this clause the district council will be enabled to insist on the use of properly constructed

carts for the conveyance of night soil, house refuse, etc., through the streets, whether the occupiers are responsible for the cleansing of privies and ashpits, or the work is performed for the council by a contractor. For wet and sloppy matter, the cart used should be watertight. As a covering to prevent droppings, etc., a good tarpaulin, properly tied over the top, is generally found sufficient, except in the case of liquid refuse. The second paragraph of the clause is an important provision in the interests of health ; as, if offensive matter is allowed to remain on a road, so as to soak into the ground, or be churned up by passing traffic, the road surface is polluted by it for an indefinite time. Moreover, filth slopped or spilled upon the surface of the street may contain infected matter, and this becoming dried may blow about in the street as infective dust, and thus give rise to risk of spreading disease. In connection with this clause, clause No. 12*, on p. 40, may be referred to.

Places within the metropolitan police district, etc.—In the case of places within the metropolitan police district, although outside the county of London (see the Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), s. 60 (4), and the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142 (2) (*a*)), or within which s. 98 of the Towns Improvement Clauses Act, 1847, is in force, clause No. 6 should be omitted from the series.

Obstructions by dust carts, etc.—Any obstruction that may be caused by allowing the cart or carriage to stand longer than necessary for the loading of it can be dealt with under s. 72 of the Highways Act, 1835 (5 & 6 Will. 4 c. 50), or s. 28 of the Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89 Reference may also be made in this connection to *Rex* v. *Russell* (1805), 6 East, 427 ; 2 Smith, 424 ; 8 Rev. Rep. 506 ; *Rex* v. *Cross* (1812), 3 Camp. 224 ; 13 Rev. Rep. 794 ; *Benjamin* v. *Storr* (1874), L. R. 9 C. P. 400 ; 43 L. J. C. P. 162 ; 30 L. T. 362 ; 22 W. R. 631 ; and Pratt's Law of Highways, 14th ed., pp. 90 *et seq.* Moreover, s. 78 of the Highways Act, 1835, which makes it an offence for the driver of any carriage to be at such a distance from it whilst it shall be passing upon such highway that he cannot have the direction and government of the horses or cattle drawing the same, applies where the driver leaves the carriage standing by the roadside (*Phythian* v. *Baxendale*, [1895] 1 Q. B. 768 ; 64 L. J. M. C. 174 ; 72 L. T. 465 ; 43 W. R. 412 ; 59 J. P. 217).

Consignments of filth to be removed by owners, etc.

7. The owner or consignee of any cargo, load, or collection of filth which may have been conveyed, by water or by land, to any place within the district to await removal from such place by such owner or consignee, and may have been deposited to await such removal upon any premises whereon such filth may lawfully be deposited, but in such a situation and in such a manner that such filth may be exposed without adequate means of preventing the emission of stench therefrom at a distance of not more than *yards* from any street or from any building or premises used wholly or partly for human habitation, or as a school, or as a place of public worship or of public resort or public assembly, or from any building or premises in or on which any person may be employed in any manufacture, trade, or business, shall not, without

reasonable excuse, cause or suffer such filth to remain after the deposit and before the removal thereof for a longer period than *hours*.

Consignments of filth to be delivered to owners, etc.

8. Every person who may have undertaken to deliver to the owner or consignee thereof any cargo, load, or collection of filth which may have been conveyed, by water or by land, to any place within the district for the purpose of being delivered by such person to such owner or consignee, and may have been deposited to await such delivery upon any premises whereon such filth may lawfully be deposited, but in such a situation and in such a manner that such filth may be exposed without adequate means of preventing the emission of stench therefrom at a distance of not more than *yards* from any street or from any building or premises used wholly or partly for human habitation, or as a school, or as a place of public worship or of public resort or public assembly, or from any building or premises in or on which any person may be employed in any manufacture, trade, or business, shall not, without reasonable excuse, cause or suffer such filth to remain after the deposit and before the removal thereof for a period of more than *hours*.

Consignments of filth.—These two clauses will be found very useful for preventing consignments of manure, etc., being deposited at railway sidings, canal wharves, or elsewhere, for an unreasonable time under such conditions as to create nuisance or be prejudicial to health. *One hundred yards* is the distance usually inserted in the first blank space in each clause, and *twenty-four hours* the time generally allowed for the removal of the stuff. The reason for treating churches, schools, and factories in this series, as in the same category as dwelling-houses, has already been suggested (see note on clause 4A). It will be seen that while clause 7 limits the time for the removal of the filth by the owner or consignee when he is responsible for such removal, clause 8 will apply in case of neglect on the part of any other person who may have undertaken the delivery of the stuff to him, as, for example, the owner of the wharf or other place at which the cargo is unloaded. As regards clause 7, it would seem that the place of temporary deposit might be either on the premises of the owner or consignee, or elsewhere. If it was not on his own premises, both clauses might in some circumstances apply to the same consignment. As to the treatment of certain kinds of filth deposited on land for agricultural purposes, see clause No. 9. Clauses 10* and 11* may also be referred to with regard to the deposit of filth which is to be subsequently carted away for these or other purposes.

Deposits of night soil manure.

9. Every person who, for any purpose of agriculture, shall deposit or cause to be deposited upon any lands or premises within the distance of *yards* from any street, or from any building or premises used, wholly or partly, for human

habitation, or as a school, or as a place of public worship, or of public resort or public assembly, or from any building or premises in or on which any person may be employed in any manufacture, trade, or business, any filth which may have been removed from any cesspool, or any filth which may have been removed from any privy, or from any receptacle used in connection with any privy, and which may not have been effectually deodorized, shall, with all reasonable dispatch, cause such filth to be ploughed or dug into the ground or to be covered with a sufficient layer of earth, ashes, or other suitable substance, or shall adopt such other precautions as may be reasonably necessary to prevent the emission of noxious or offensive effluvia from such filth.

Treatment of night soil manure.—Clauses 7 and 8 of the model series deal with the temporary deposit of any kind of filth pending removal by, or delivery to, the owner or consignee. The present clause refers only to privy and cesspool filth which is intended for purposes of agriculture. The byelaw is directed against the nuisance which arises if such stuff, in an undeodorized state, is deposited upon, or spread over the land without being properly covered with earth, or ploughed or dug into the ground without needless delay. The distance usually inserted in this clause is "*one hundred yards.*"

Cases coming within this byelaw may also be dealt with under ss. 91—96 of the Public Health Act, 1875, inasmuch as s. 91 (4) declares that any accumulation or deposit which is a nuisance or injurious to health shall be deemed to be a nuisance liable to be dealt with summarily under this Act. In *Mayor, etc. of Scarborough* v. *Rural Sanitary Authority of Scarborough* (1876), 1 Ex. D. 344 ; 34 L. T. 768 ; 40 J. P. 455, the appellants, who were the urban sanitary authority of Scarborough, deposited, in a field, ashes, manure, and refuse collected in Scarborough, in order that the same might be removed by certain farmers with whom they had contracted for the purchase thereof. The appellants were not the owners or tenants of the field, and they exercised no control over the ashes, etc., after the same were deposited there. The deposit formed a nuisance. An order was made under the Public Health Act, 1875, s. 96, by justices against the appellants for the abatement of the existing nuisance, and for the prohibition of its recurrence :—*Held*, that so much of the order as directed an abatement was bad, for it prescribed an act, the execution of which might involve the committal of a trespass ; but that so much of the order as prohibited a recurrence was good, for it was the act of the appellants which created the nuisance. This case was followed in *R.* v. *Trimble* (1877), 36 L. T. 508 ; 41 J. P. 455 ; and in the Irish case of *Letterkenny Commissioners* v. *Collins* (1891), 28 L. R. Ir. 235 : but was not approved in *Parker* v. *Inge* (1886), 17 Q. B. D. 584 ; 55 L. J. M. C. 149 ; 55 L. T. 300 ; 51 J. P. 20. The ground for this is that there is a possibility of the owner being able to enter on the works. "It is not probable," said POLLOCK, B., "that the tenant in the great majority of instances would object to his landlord coming upon the premises to abate a nuisance which was injurious to the health of persons living there. If the tenant does object, s. 98 applies, and no liability to a penalty incurs until default is found, and the person in default 'fails to satisfy the court that he has used all due diligence to carry out'

the order to abate the nuisance . . ." An order may therefore be made upon the owner, although not in occupation, to abate in nearly all cases, and if the occupier objects to his obeying the order, he may then, under s. 98, satisfy the justices that he has used all due diligence to carry out the order. It may be added that the attention of the court does not appear to have been called to s. 98 in the *Scarborough Case*, or in *R.* v. *Trimble*, *supra*.

"Filth emitting a stench" not to be deposited near dwellings, etc.

10.* No person shall unload or deposit within *one hundred yards* from any street or from any building used for human habitation, or as a school or place of public resort, or in which any person is employed in any manufacture, trade, or business, any filth emitting a stench and brought to the place of unloading or deposit for the purpose of being removed therefrom.

"Filth emitting a stench."—Treatment to prevent nuisance.

11.* Every person who shall unload or deposit any filth emitting a stench, and brought to the place of unloading or deposit for the purpose of being removed therefrom, in any place within such a distance from any building used for human habitation, or as a school or place of public resort, or in which any person is employed in any manufacture, trade, or business, that the stench is likely to cause offence to the persons in such building (although such place be not within the distance of *one hundred yards* from such building), shall cause such filth to be forthwith covered with a sufficient layer of earth or other suitable substance, or shall adopt such other precautions as may be sufficient to prevent the emission of any noxious or offensive effluvia from the filth.

"Filth emitting a stench."—Conveyance through streets.

12.* Every person who shall convey any filth emitting a stench through or along any street shall, previous to and during the whole time of such conveyance, cause such filth to be covered with lime or other suitable substance, or shall adopt such other precautions as respectively may be reasonably necessary to prevent the emission of noxious or offensive effluvia from such filth.

"Filth emitting a stench."—Prints of these clauses can be obtained from the Local Government Board on application. They are intended to prevent (*a*) the use for the unloading of filth emitting stench of a wharf or siding within one hundred yards from a street or from certain buildings; (*b*) the emission of noxious or offensive effluvia from any such filth unloaded at a wharf or siding beyond the prescribed distance from any such buildings, but so situated as to cause offence to persons if due precautions are not taken; and (*c*) the emission from such filth of noxious or offensive effluvia while it is being conveyed through the streets. The following may be mentioned as examples of the kind of filth to which these byelaws are specially intended

to apply, viz., fish manure, slaughterhouse refuse, and the peculiarly offensive compounds classed under the head of "town manure."*

These clauses have been considered useful where the night soil of a large town is carted through an urban district, on its outskirts.

Byelaws under 53 & 54 Vict. c. 59.—Byelaws as to the conveyance of filth through the streets may, as already mentioned (p. 30), be made under s. 26 (1) of the Public Health Acts Amendment Act, 1890.

Nuisances from the keeping of animals.—For some observations on the keeping of animals, the nuisances arising therefrom, and the means of preventing or minimising such nuisances, see Part I. of Dr. Ballard's Report on Effluvium Nuisances (Sixth Report of the Medical Officer of the Local Government Board).† In Dr. Ballard's remarks the keeping of horses, cows and pigs is specially dealt with. Special series of byelaws applicable to the keeping of pigs, where this is largely carried on, are believed to have been approved by the Local Government Board in certain cases under s. 44 of the Public Health Act, 1875.

Keeping of swine near dwellings, etc.

10. The occupier of any premises shall not keep any swine or deposit any swine's dung within the distance of *feet* from any dwelling-house, or in such a situation or in such a manner as to pollute any water supplied for use or used or likely to be used by man for drinking or domestic purposes or for manufacturing drinks for the use of man, or any water used or likely to be used in any dairy.

Keeping of cattle near water supply.

11. The occupier of any premises shall not keep any cattle or deposit the dung of any cattle in such a situation or in such a manner as to pollute any water supplied for use, or used, or likely to be used by man for drinking or domestic purposes or for manufacturing drinks for the use of man, or any water used or likely to be used in any dairy.

Pollution of air and water supply by excrement of animals.—The importance of the matter dealt with in these two clauses, in relation to health, cannot well be over estimated. It is true that in regard to areas of a rural or semi-rural character, some difficulty has been occasioned in the application of the clauses by a decision of the High Court, which will presently be referred to; but with regard to an urban district, it may be mentioned that a byelaw

* The manure from most large towns contains a considerable proportion of human excreta, and of other varieties of animal (besides vegetable) refuse. "London manure"—an especially horrible compound—differs from the refuse of other places in that, while it does not generally contain any admixture of human excrement, it includes the highly offensive manure from cattle ships, and has a smaller proportion of coal ashes. The manure of places like Liverpool and Plymouth is said to resemble that of London. For much valuable information on the subject, see Dr. Parsons' Report "On Manure Nuisances" (Annual Report of the Medical Officer of the Local Government Board for 1891—1892).

† Published in 1882 in a separate form (Shaw and Sons).

prohibiting the keeping of swine within *one hundred feet* from a dwelling-house was held by the court to be reasonable in the case of *Wanstead Local Board of Health* v. *Wooster* (1873), 37 J. P. 403 ; 38 J. P. 21), and it is believed that a byelaw prescribing even a greater distance than one hundred feet has been confirmed by the Local Government Board for an urban district. It may be questioned whether, in any case, less than, say, *sixty feet* would be assented to by them.

The decision above alluded to is that given in the case of *Heap* v. *Burnley Rural Sanitary Authority* (1884), 12 Q. B. D. 617 ; 53 L. J. M. C. 76 ; 32 W. R. 661 ; 48 J. P. 359, where a similar byelaw prohibiting the keeping of swine within fifty feet from any dwelling-house within a rural district, was held to be unreasonable and bad. Lord COLERIDGE, C.J., in giving judgment in this case, said it was impossible to attempt to lay down what, under all circumstances, would be a reasonable byelaw ; but it seemed to him unreasonable to say that in country districts nobody should keep a pig within fifty feet of his dwelling-house.

The course which has been generally adopted since this decision, in the case of rural or semi-rural districts, is to omit clause 10 from the series, and insert the words "or swine" after "cattle" in each of the two places where it occurs in clause 11.

It is not necessary, in order to justify a conviction under byelaws in the form in the text, that the pigs or cattle should have been fed or kept during the night within the prohibited limits. Thus, where a byelaw made by an urban authority imposed a penalty for keeping swine within fifty yards of a dwelling-house, the respondent, a pig-dealer, on receiving orders for the sale of pigs, used to bring the animals in the morning to a place within the urban district, and within fifteen yards of a dwelling-house, and keep them there till the evening, but without feeding them, and in the evening the pigs were sent off by railway or otherwise to the purchasers, and it was held that there was, nevertheless, a keeping of the swine contrary to the byelaw (*Steers* v. *Manton* (1893), 57 J. P. 584).

The keeping of swine "so as to be a nuisance to any person" is the subject of penalties under the express provision in s. 47 of the Public Health Act, 1875. See also s. 91 of that Act, which applies to the keeping of any animal "so as to be a nuisance or injurious to health."

Piggeries near streets, etc.—A byelaw sometimes proposed, prohibits the keeping of pigs within a prescribed distance of any public thoroughfare ; but this does not seem to be a matter which, by itself, can be regarded as "injurious to health." Such a byelaw, therefore, is to be regarded as *ultra vires*. See *Everett* v. *Grapes* (1861), 3 L. T. 669 ; 25 J. P. 644. It may, however, be pointed out that, as regards urban districts, s. 28 of the Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89), which is incorporated with the Public Health Act, 1875, by s. 171 of the latter Act, prohibits the keeping of any pigstye to the front of any street, not being shut out from such street by a sufficient wall or fence, and the keeping of any swine in or near any street, so as to be a common nuisance. Section 47 of the Act of 1875, moreover, provides for any case where swine or pigstyes may be kept so as to be a nuisance to any person.

Piggeries on farms and market gardens.—Some relaxation of the requirements as to the distance of piggeries from dwellings seems reasonable in the case of farms and market gardens. A clause on the following lines may be suggested in substitution for the model clause 10.

Piggeries on farms and market gardens.

The occupier of any premises shall not, except as is hereinafter provided, keep any swine, or deposit any swine's dung within the distance of *fifty feet* from any two or more dwelling-houses. Provided always that this byelaw shall not apply where any premises are occupied as a farm, or as a market garden, and where any swine are kept, and any swine's dung is deposited upon such premises, so as not to be within a distance of *one hundred feet* from any two or more dwelling-houses not situate on such farm or market garden.

In connection with this clause, the remarks on p. 42, as to the decision in the case of *Heap* v. *Burnley Rural Sanitary Authority*, should receive consideration.

Nuisance depending on number of pigs kept.—The question whether the keeping of pigs is injurious to health depends to some extent upon the number of pigs kept in a given space, or on a given spot. Hence it would seem that a byelaw might be framed limiting the number of pigs to be kept within a specified distance of a dwelling-house.

Receptacles for dung, etc., to be provided.

12. Every occupier of a building or premises wherein or whereon any horse or other beast of draught or burden or any cattle or swine may be kept shall provide, in connection with such building or premises, a suitable receptacle for dung, manure, soil, filth, or other offensive or noxious matter which may, from time to time, be produced in the keeping of any such animal in such building or upon such premises.

Construction of receptacles.

He shall cause such receptacle to be constructed so that the bottom or floor thereof shall not in any case be lower than the surface of the ground adjoining such receptacle.

He shall also cause such receptacle to be constructed in such a manner and of such materials and to be maintained at all times in such a condition as to prevent any escape of the contents thereof, or any soakage therefrom into the ground or into the wall of any building.

He shall cause such receptacle to be furnished with a suitable cover and, when not required to be open, to be kept properly covered.

Stables, etc., to be drained.

He shall likewise provide in connection with such building or premises a sufficient drain constructed in such a manner and of such materials and maintained at all times in such a condition as effectually to convey all urine or liquid filth or refuse therefrom into a sewer, cesspool, or other proper receptacle.

Cleansing of dung-pits.

He shall, once at least in *every week*, remove or cause to be removed from the receptacle provided in accordance with the

requirements of this byelaw all dung, manure, soil, filth, or other offensive or noxious matter produced in or upon such building or premises and deposited in such receptacle.

Dung-pits.—Paragraphs 1—4 and 6 of this clause regulate the keeping of the dung of animals so as to prevent injury to health. The concluding words of s. 44 of the Public Health Act, 1875, seem wide enough to authorise such a clause, and it is understood that great importance is attached to the provision by the Local Government Board. See also the cases of *Wanstead* v. *Wooster* (1873), 38 J. P. 21 ; and *Local Board of Tong Street* v. *Seed* (1874), 38 J. P. 757 ; 39 J. P. 278, where such a byelaw was held reasonable. The byelaw requires that the dung-pit shall be wholly above ground ; that it shall be watertight, and have a proper cover ; and that it shall be emptied at least once a week. It will be observed that the arrangement prescribed aims, among other things, at keeping rain and sub-soil water from the contents of the dung-pit, and preventing the soakage of offensive liquid into the ground or any adjacent building. The kind of "cover" which should be provided for the receptacle may depend on the circumstances of the case. In some situations probably the requirement would be satisfied if a roof were constructed over the receptacle.

Drainage and paving of stables, cowsheds, etc.—Paragraph 5 of the byelaw requires every stable, cowhouse, or pigstye to be properly drained, and it is suggested that the Local Government Board would probably sanction an addition to the series of a clause prohibiting the keeping of cattle, horses, pigs, etc., in cowsheds, stables, or styes, the floors of which are not properly paved with hard and impermeable material, with a proper fall towards the drain to be provided in accordance with this byelaw.

Receptacles for pig-wash, etc.—It has been suggested that the byelaws should require the provision of properly covered receptacles for the food or "wash" intended to be given to pigs ; but it is undesirable to encourage the storing of large quantities of this kind of matter.

Removal of dung.—In order to secure a conviction under paragraph 6 of this byelaw it is not necessary to prove that a nuisance was caused by disobeying it (*Tong Street Local Board* v. *Seed* (1874), 39 J. P. 278). With reference to this paragraph, see also the memorandum of the Local Government Board (*ante*, p. 29), and s. 50 of the Public Health Act, 1875, therein cited. See also ss. 49 and 91 of that Act, and *Smith* v. *Waghorn* (1863), 27 J. P. 744.

Proviso for certain premises.—A proviso, which has been adopted in the case of some thinly populated districts, is as follows :—

Proviso.

"Provided always that the foregoing byelaw shall not apply in any case in which the building or premises wherein or whereon any such animal may be kept shall not be within *one hundred* feet of any dwelling-house, which is not in the same curtilage as such building or premises."

In connection with this proviso, however, the following remarks of Dr.

Ballard * are deserving of consideration. Nuisance from the keeping of animals, he observes, "is more likely to arise, and when it arises to be more serious in character, where the population is dense than where it is sparse. But it is not solely amid aggregations of population that such nuisances may be occasioned. A single animal, badly kept, in or near a solitary house, may be a source of injury to the inhabitants of that house in consequence of the effluvia proceeding from it." Another application of this proviso which has been suggested, is to limit it to paragraphs 1—4, and 6 of the byelaw, making the fifth paragraph a separate clause. The effect is to require all stables, piggeries, etc., wherever situated, to be drained, even though the other requirements of the model clause may not apply to them.

It is sometimes proposed to require that any building or premises to be exempted shall also be more than a certain distance from any street. But this is open to the objection that the keeping of animals within a given distance of a street is not necessarily injurious to health. No such byelaw could, therefore, be allowed under s. 44 of the Public Health Act, 1875. (See note, p. 42.)

Byelaws under 53 & 54 Vict. c. 59.—Where s. 26 (1) of the Public Health Acts Amendment Act, 1890, is in force, and it is desired to make a series of byelaws embodying clauses under that enactment, as well as byelaws made under s. 44 of the Act of 1875, such clauses should be inserted here, under appropriate headings.

Penalties.

13. Every person who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of , and in the case of a continuing offence to a further penalty of for each day after written notice of the offence from the [Council]:

Provided nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment as a penalty of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalties.—Any sums not exceeding "*five pounds*" and "*forty shillings*" may be inserted. The second paragraph meets the requirements of s. 183 of the Public Health Act, 1875.

Recovery of penalties.—As to the recovery of penalties, see s. 251 of the Public Health Act, 1875, and notes thereon in Lumley's Public Health, 5th ed., p. 333.

Repeal.—The following clause should be added to the series, if there are any byelaws in force as to nuisances arising from snow, filth, etc., and the keeping of animals, and the district council are desirous of repealing such byelaws.

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* Report on Effluvium Nuisances (Sixth Report of the Medical Officer of the Local Government Board). Published in separate form, 1882.—Shaw & Sons.

Repeal of Byelaws.

Repeal.

14. From and after the date of the confirmation of these byelaws, the byelaws relating to , which were made on the day of in the year one thousand eight hundred and by the and were confirmed on the day of in the year one thousand eight hundred and by [one of Her Majesty's Principal Secretaries of State] [the Local Government Board] shall be repealed.

SERIES III.

COMMON LODGING-HOUSES.

COMMON LODGING-HOUSES.

MEMORANDUM.

Scope of byelaws as to common lodging-houses.

By section 80 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), it is enacted that "Every Local Authority shall, from time to time, make byelaws :—

"(1.) For fixing and, from time to time, varying the number of lodgers who may be received into a common lodging-house, and for the separation of the sexes therein; and

"(2.) For promoting cleanliness and ventilation in such houses; and

"(3.) For the giving of notices and the taking precautions in the case of any infectious disease; and

"(4.) Generally, for the well-ordering of such houses."

The terms of the above quoted enactment indicate, with sufficient clearness, the scope of the byelaws which the Sanitary Authority are empowered to make for the regulation of common lodging-houses.

Independently of the byelaws authorised by section 80, the Public Health Act, 1875, confers upon the Sanitary Authority powers which, if duly exercised, will enable them to secure compliance with various requirements of essential importance in relation to the public health.

In illustration of the nature and extent of the control which, either by means of byelaws or by the operation of the express provisions of the Public Health Act, 1875, the Sanitary Authority may exercise over common lodging-houses, and in anticipation of questions which may arise in connection with this branch of sanitary administration, it may here be convenient to append a few observations.

What is a common lodging-house.

By section 89 it is provided that for the purposes of the Act, "the expression 'common lodging-house' includes in any case

in which only part of a house is used as a common lodging-house the part so used of such house." The Act, however, contains no exact definition of a "common lodging-house"; and in cases where doubts may be suggested as to whether any particular house or part of a house is or is not comprehended in that designation, it will probably be found useful to refer to the opinion of the law officers of the Crown* which was communicated to the several Local Boards by the circular of the General Board of Health, dated the 17th of October, 1853.

From that circular it appears that the law officers, when consulted as to the meaning of the expression "common lodging-house" in the 14 & 15 Vict. c. 28, advised as follows:—

"It may be difficult to give a precise definition of the term 'common lodging-house,' but looking to the preamble and general provisions of the Act, it appears to us to have reference to that class of lodging-houses in which persons of the poorer class are received for short periods, and though strangers to one another are allowed to inhabit one common room. We are of opinion that it does not include hotels, inns, public houses or lodgings let to the upper and middle classes."

By that part of the above definition which refers to the persons inhabiting a common lodging-house being "strangers to one another," the law officers in a second opinion explained that their "obvious intention was to distinguish lodgers promiscuously brought together from members of one family or household."

In reply to the question, whether lodging-houses, otherwise coming within the definition but let for a week or longer period, would, from the latter circumstance, be excluded from the operation of the Act, the law officers observed:—"We are of opinion that the period of letting is unimportant in determining whether a lodging-house comes under the Act now in question."

So far as the foregoing definition of a common lodging-house rests upon the basis of the habitation of a common room by lodgers who are strangers to one another in the sense of not being members of one family or household, it may be inferred

*Sir Alexander Cockburn, afterwards Lord Chief Justice of England, and Sir William Page Wood, afterwards Lord Hatherley, Lord Chancellor.

that this characteristic equally distinguishes the common lodging-houses to which the Public Health Act, 1875, applies. Such an inference receives support from the terms of section 87 which enacts that "in any proceedings under the provisions of this Act relating to common lodging-houses, if the inmates of any house or part of a house allege that they are members of the same family the burden of proving such allegation shall lie on the persons making it."

Registration of common lodging-houses.

With regard to the registration of common lodging-houses, in referring generally to the provisions of sections 76—79 and to so much of section 86 as renders liable to penalty any keeper of a common lodging-house who receives any lodger in such house without the same being registered under the Act, the Board would direct especial attention to an enactment in section 78. By that section it is provided that "a house shall not be registered as a common lodging-house until it has been inspected and approved for the purpose by some officer of the Local Authority."

Structural arrangements.

To the thoroughness of this inspection much importance should be attached. It is essential that in all structural details the fitness of the premises should be carefully ascertained before the house is placed upon the register.

The rules which should guide the inspecting officer in his examination of the premises may be thus briefly indicated:—

The house should (1) possess the conditions of wholesomeness needed for dwelling-houses in general; and (2) it should further have arrangements fitting it for its special purpose of receiving a given number of lodgers.

(1.) The house should be dry in its foundations and have proper drainage, guttering, and spouting, with properly laid and substantial paving to any area or yard abutting on it. Its drains should have their connections properly made, and they should be trapped, where necessary, and adequately ventilated. Except the soil pipe from a properly trapped watercloset, there should be no direct communication of the drains with the interior of the house. All waste-pipes from sinks, basins, and cisterns should discharge in the open air over gullies outside the house. The soil pipe should always be efficiently ventilated. The closets or privies

and the refuse receptacles of the house should be in proper situations, of proper construction and adapted to any scavenging arrangements that may be in force in the district. The house should have a water supply of good quality, and if the water be stored in cisterns they should be conveniently placed and of proper construction to prevent any fouling of water. The walls, roof, and floors of the house should be in good repair. Inside walls should not be papered. The rooms and staircases should possess the means of complete ventilation; windows being of adequate size, able to be opened to their full extent, or, if sash windows, both at top and bottom. Any room proposed for registration that has not a chimney should be furnished with a special ventilating opening or shaft, but a room not having a window to the outer air, even if it have special means of ventilation, can seldom be proper for registration.

(2.) The numbers for which the house and each sleeping room may be registered will depend, partly upon the dimensions of the rooms and their facilities for ventilation, and partly upon the amount of accommodation of other kinds. In rooms of ordinary construction to be used for sleeping, where there are the usual means of ventilation by windows and chimneys, about 300 cubic feet will be a proper standard of space to secure to each person; but in many rooms it will be right to appoint a larger space, and this can only be determined on inspection of the particular room. The house should possess kitchen and dayroom accommodation apart from its bedrooms, and the sufficiency of this will have to be attended to. Rooms that are partially underground may not be improper for dayrooms, but should not be registered for use as bedrooms. The amount of water supply, closet or privy accommodation, and the provision of refuse receptacles should be proportionate to the numbers for which the house is to be registered. If the water is not supplied from works with constant service, a quantity should be secured for daily use on a scale, per registered inmate, of not less than ten gallons a day where there are waterclosets, or five gallons a day where there are dry closets. For every twenty registered lodgers a separate closet or privy

should be required. The washing accommodation should, wherever practicable, be in a special place and not be in the bedrooms; and the basins for personal washing should be fixed and have watertaps and discharge pipes connected with them.

Arrangements for the supply by the Sanitary Authority of placards such as are mentioned in the byelaws numbered 23 and 24 in the model series may be suggested as conducive to the well-ordering of common lodging-houses. Supply of placards

JOHN LAMBERT,
Secretary.

Local Government Board,
25th July, 1877.

Obligation to make byelaws as to common lodging-houses.—It will be seen that s. 80 of the Public Health Act, 1875, applies to "every local authority" under the Act. No urban powers, therefore, are necessary in order to enable a rural district council to make byelaws as to common lodging-houses. The terms of the section are mandatory, hence every urban and rural district council, in whose district there are any common lodging-houses, must make byelaws on the subject.

What is a common lodging-house.—Since the issue of the memorandum above set out the following cases have been decided with reference to this question:—

In *Langdon* v. *Broadbent* (1877), 37 L. T. (N.S.) 434; 42 J. P. 56, it was held that a lodging-house where hawkers and persons of a similar class were received, staying for various periods, having their meals in one room, and paying sixpence a night, was a common lodging-house within the above section. GROVE, J., said: "Each case must be decided on its own facts. There may be lodging-houses resorted to by a higher class of persons to which the term 'common lodging-house' would not be applicable. The case does not find whether the lodgers occupied separate sleeping apartments. But I do not think it is necessary to show that the lodgers are all herded together in order to bring the case within the statute. Even if a common room is necessary to constitute a common lodging-house, the evidence here shows that they all took their meals together."

In *Booth* v. *Ferrett* (1890), 25 Q. B. D. 87; 59 L. J. M. C. 136; 63 L. T. (N.S.) 346; 38 W. R. 718; 55 J. P. 7; 6 T. L. R. 337, the appellant opened and kept a lodging-house for the reception of male lodgers, who slept in one common room capable of accommodating 100 persons. The lodgers were charged, at the discretion of the manager, a sum not exceeding fourpence per night for bed, supper, and breakfast; but the house was maintained, not for the purpose of gain, but for the accommodation of the poorest class of persons only, partly with a charitable, and partly with a religious object. The house had not been inspected or approved by the officer of the local authority,

nor was it registered. The appellant having been summoned and convicted for keeping a common lodging-house in contravention of the provisions of 16 & 17 Vict. c. 41, s. 3 :—*Held*, that the house, being maintained as a charitable institution and not for purposes of gain, was not a common lodging-house within the meaning of the Act, and that the conviction could not be supported.

As pointed out in the memorandum of the Local Government Board, where part only of a house is used as a common lodging-house, the part so used is a "common lodging-house" for the purposes of the Act (s. 89).

What constitutes registration.—A resolution of the local authority is sufficient to constitute registration. Thus, where the respondent, having fulfilled the necessary preliminaries under s. 78, applied to be registered under this section, and the local authority passed a resolution that his house should be registered, but the clerk did not carry out this resolution, and no formal registration of the respondent or of his house was made, and eight months afterwards the local authority resolved that his house should not be registered, and two months later prosecuted him for keeping a common lodging-house without being registered, the justices refused to convict and stated a case. It was held that for the purposes of the Act the resolution of the local authority constituted registration, and that the justices were right in refusing to convict (*Coles* v. *Fibbens* (1885), 52 L. T. (N.S.) 358 ; 49 J. P. 308).

Refusal to register, and cancellation, or periodical renewal of registration.—The local authority cannot, apparently, refuse to register a common lodging-house if it has been inspected and approved for the purpose by some officer of the authority (see *per* MATHEW, J., in *Coles* v. *Fibbens* (1885), 52 L.T. (N.S.) 358 ; 49 J. P. 308). But if the officer has refused to approve, the local authority are not bound to hear the applicant in support of his application for a licence (*Ex parte Cavanagh* (1894), 10 T. L. R. 533). It would also seem that, except in a case of failure on the part of the owner or keeper to provide a proper water supply, when required by notice under s. 81 of the Act to obtain such a supply, the local authority have no power to remove a registered common lodging-house from the register. Neither does it appear to be competent to the local authority to register a common lodging-house, or the keeper of a common lodging-house for a limited time, so as to require the registration to be periodically renewed. Under s. 88, where the keeper of a common lodging-house is convicted of a third offence "against any of the provisions of this Act" relating to common lodging-houses, the court before whom the conviction for the third offence takes place, may, if it thinks fit, adjudge that he shall not at any time within five years after the conviction, or within such shorter period after the conviction as the court thinks fit, keep a common lodging-house without the previous licence in writing of the local authority ; and that authority may withhold or grant such licence on such terms or conditions as they think fit. It will be seen, however, that this enactment does not affect the registration of the house, but only the person keeping the house, and it does not seem to apply in the case of offences against byelaws made under the Act.

The local authority appear to have no power to cancel or suspend the registration of a person as keeper of a common lodging-house ; and they cannot, apparently, refuse to register as such keeper a person who produces a certificate such as is mentioned in s. 78 of the Act.

Who is the keeper of a common lodging-house.—With regard to the meaning of the word *keeper*, the law officers, in their opinion already referred to in the memorandum, advised that where a person neither resides in the house nor exercises any control over its management, but simply receives the rent, he cannot be considered *the keeper*; but where the owner, though not resident in the house, either in person or through an agent, colourably or otherwise, exercises control over its management, they had no doubt that he should be considered the keeper. *Halligan* v. *Ganley* (1868), 19 L. T. (N.S.) 268, appears at first sight to be contrary to this opinion. It was a decision of the Common Pleas in Ireland, but it will be found to turn entirely on the definition of *public lodging-house* and *keeper* in a local Act (27 & 28 Vict. c. cccv. s. 4). It is not, therefore, an authority on the interpretation of the above section. For purposes of comparison, reference may also be made to the following cases under other Acts: *R.* v. *Barrett* (1862), L. & C. 263; 32 L. J. M. C. 36; 7 L. T. 435; 11 W. R. 124; 9 Cox C. C. 255; *R.* v. *Stannard* (1863), L. & C. 349; 33 L. J. M. C. 61; 9 L. T. 428; 12 W. R. 208; 9 Cox C. C. 405; *Clarke* v. *Hague* (1860), 2 E. & E. 281; 29 L. J. M. C. 105; 6 Jur. (N.S.) 273; 8 W. R. 363; 8 Cox C. C. 324; *Jenks* v. *Turpin* (1884), 13 Q. B. D. 505; 53 L. J. M. C. 161; 50 L. T. 808; 49 J. P. 20, 37.

Inspection of common lodging-houses.—Section 85 of the Public Health Act, 1875, requires free access to be given at all times to any officer of the local authority demanding admission to a common lodging-house, or any part thereof, and renders liable to a penalty any person having or acting in the care or management of the house, by whom such access may be refused. This enactment, providing, as it does, for the systematic inspection of registered common lodging-houses, as well as for such an examination of the premises as is necessary previous to a house being placed upon the register, confers on the local authority a power of which they would be well advised in taking full advantage. Indeed, without this preliminary examination and subsequent systematic inspection, the model byelaws would be of little practical value in securing the proper regulation of such houses.

With respect to what is meant by access *to any part* of a common lodging-house, reference may be made to the following case, decided under the corresponding provisions of the law applicable in Scotland.

The keeper of a common lodging-house, on access to the house being demanded by two officers of a local authority, refused access (1) to a room which opened off a licensed room and could only be entered through it (this room had not been observed when the premises were inspected with a view to the licence being granted, and was not itself licensed); (2) to two rooms which were licensed, but which he had shut off entirely from the rest of the house, which had a separate entrance to the street, and which, after giving notice to the local authority that he had ceased to use them as part of the lodging-house, he had let to a monthly tenant:—*Held*, that in refusing access to the first-mentioned room he had contravened the statute, but otherwise in regard to the other two rooms (*Gunn* v. *Cadenhead* (1888), 15 Ct. of Sess. Cas., 4th series (J. C.) 57).

Structural details, etc.—The model byelaws contain no provisions under which structural works can be required in the case of common lodging-houses. The terms of s. 80 of the Act are not such as to authorise clauses of the kind; nor are they in any way necessary, in view of the express provisions of the Act. Any defect in the structural arrangements for ventilation, drainage,

privy accommodation, or the like, may furnish the local authority with sufficient reason for refusing to register a house, and, having regard to the enactments in ss. 77 and 86, prohibiting, under penalties, the keeping as a common lodging-house of any unregistered house, the local authority can, by so refusing registration, effectually insist on such provisions as they consider necessary. The erection of new buildings intended to be used as common lodging-houses, will, of course, be subject to the provisions of the model bye-laws with respect to new buildings, where those byelaws are adopted ; but as regards drainage and privy accommodation, reference may be made to ss. 23, 36 and 37 of the Act, and as to the water supply of common lodging-houses, to s. 81.

Byelaws under 57 & 58 Vict. c. 60.—Any local authority whose district includes a seaport town may, with the approval of the Board of Trade, make byelaws under the Merchant Shipping Act, 1894, s. 214, relating to seamen's lodging-houses in such town.

SERIES III.—COMMON LODGING-HOUSES.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for draft forms on which to submit the byelaws for the Board's preliminary approval before they are adopted by the local authority.*]

BYELAWS

MADE BY THE* WITH RESPECT TO COMMON LODGING-HOUSES IN THE† .

Interpretation of Terms.

1. Throughout these byelaws, the expression "the Council" means the* . Interpretation.

Interpretation.—This clause should be inserted, although it does not at present form part of the model series as printed. The following clauses should be renumbered.

For fixing and from time to time varying the number of lodgers who may be received into a common lodging-house, and for the separation of the sexes therein; and

For promoting cleanliness and ventilation in such houses; and

For the giving of notices and the taking precautions in the case of any infectious disease; and

Generally for the well ordering of such houses.

1. A keeper of a common lodging-house shall not, at any one time, receive, or cause or suffer to be received into such house, or into any room therein, a greater number of lodgers than shall be fixed by the [Council] as the maximum number of lodgers authorised to be received into such house, or into such room, and shall be specified in a notice in writing, according to the form herein-after prescribed, which shall be duly served upon or delivered to such keeper, and shall continue in force until, in pursuance of the provisions of the byelaw in that Fixing of number of lodgers.

* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or* "Urban [*or* Rural] District Council of "; *as the case may be.*

† *Insert name of borough or urban or rural district, or, if the byelaws are to apply to part only of a rural district,* "that portion of the Rural District of which comprises the contributory places of "; *as the case may be.*

behalf, the number so fixed and specified shall be varied by the [Council].

Form of Notice.

To of .

WHEREAS, in pursuance of the statutory provision in that behalf, you have been duly registered by the [Council] of as the keeper of a common lodging-house, situated at , in the [of]:

Now I , clerk to the said [Council], do hereby give you notice that, in the exercise of the powers conferred upon them in that behalf, the said [Council] have fixed as the maximum number of lodgers authorised to be received at any one time into such house, and into the several rooms therein, the number specified in respect of such house and of each of such rooms in the Schedule hereunto appended.

SCHEDULE.

District* of .

Common lodging-house situated at .

Name of keeper .

The maximum number of lodgers authorised to be received at any one time into this house is .

The maximum number of lodgers authorised to be received at any one time into each of the several rooms in this house is the number specified in respect of such room in the appropriate column of the following table:

——	Description or number of room.	Dimensions or cubical contents of room.	Maximum number of lodgers.
Ground storey.			
First storey.			
Second storey.			
Topmost storey.			

For the purposes of this notice every two children under the age of *ten years* may be counted as one lodger.

Witness my hand this day of 18 .

Clerk to the [*Council*].

* *Or* Borough.

Number of lodgers.—In connection with this clause, attention should be drawn to the terms of s. 80 (1) of the Act. They authorise byelaws for "fixing" the number of lodgers, and "from time to time varying" such number. A byelaw merely reserving power to the local authority to fix the number would not be in accordance with the statute. But as it is obviously impossible, having regard to the varying conditions of common lodging-houses, as regards their size, arrangement, fittings, etc., to frame a byelaw specifying otherwise than generally the number of lodgers to be received into such houses, the model clause No. 1 "fixes" the number to be so received in each particular case by reference to a notice which is to be served on the keeper of the house. Clause 23 contemplates the posting of so much of the notice as is material in each room of the house. The number of lodgers may be varied by serving on the keeper such a notice as is referred to in clause No. 2. It is suggested in the official memorandum issued with this series that in the sleeping rooms each adult lodger, or two children under ten years of age,* shall be allowed about 300 cubic feet of air space. This should be regarded as the minimum, and the number of lodgers should be fixed accordingly. In London rather more than 300 cubic feet for each lodger is now usually obtained in the case of sleeping rooms, by requiring that to each bed there shall be a minimum floor space of 40 square feet. The number received into an apartment which is used both as a day-room and as a sleeping room should be less, by at least one-fourth, than if the room were used by night only ; but any special conditions, such as an unusual shape on plan, an unusually low ceiling, or limited means of ventilation, must be taken into account as reducing the number of persons for whose occupation the room is suitable.

Variation of number of lodgers.

2. A keeper of a common lodging-house, in any case where the [Council] may, from time to time, determine that it is expedient to vary the number fixed by them as the maximum number of lodgers authorised to be received into such house, or into any room therein, and may, from time to time, for the purpose of such variation, cause to be duly served upon or delivered to such keeper a notice in writing according to the form herein-after prescribed, shall not, at any one time, after any such notice shall have been duly served upon or delivered to him, and after the date specified in such notice, and until, in pursuance of the provisions of this byelaw, the number specified in such notice shall be further varied, receive, or cause or suffer to be received into such house, or into any room therein, a greater number of lodgers than shall be specified in such notice as the maximum number of lodgers authorised to be received into such house, or into such room.

* *Cf.* the schedules to the forms of notices prescribed by this and the succeeding byelaws.

Form of Notice.

To of .

Whereas, in pursuance of the statutory provision in that behalf, you have been duly registered by the [Council] of as the keeper of a common lodging-house, situated at , in the [of]:

And whereas the said [Council] have determined that it is expedient to vary the number heretofore fixed by them as the maximum number of lodgers authorised to be received at any one time into such house and into the several rooms therein:

Now I , clerk to the said [Council], do hereby give you notice that from and after the day of , the maximum number of lodgers authorised to be received at any one time into such house and into the several rooms therein shall be the number specified in respect of such house and of each of such rooms in the Schedule hereto appended.

Schedule.

District* of .

Common lodging-house situated at .

Name of keeper .

The maximum number of lodgers authorised to be received at any one time into this house is .

The maximum number of lodgers authorised to be received at any one time into each of the several rooms in this house is the number specified in respect of such room in the appropriate column of the following table:

——	Description or number of room.	Dimensions or cubical contents of room.	Maximum number of lodgers.
Ground storey.			
First storey.			
Second storey.			
Topmost storey.			

For the purposes of this notice every two children under the age of *ten years* may be counted as one lodger.

Witness my hand this day of 18

Clerk to the [*Council*].

* *Or* Borough.

Variation of number of lodgers.—As instances in which the power to vary the number of lodgers to be received into a common lodging-house, or into any room therein, may have to be exercised, we may refer to cases where the premises are enlarged, or two rooms are thrown into one, or where the class of persons, whether married or single, to whose use a room is appropriated, is intended to be altered. The power may also have to be resorted to in connection with an outbreak, or threatened outbreak, of epidemic disease. Under clause 18, the number of lodgers to be received into any room may be temporarily reduced by direction of the medical officer of health.

Separation of the sexes.

3. A keeper of a common lodging-house shall not, except in such cases as are herein-after specified, cause or suffer any person of the male sex above the age of *ten years* to use or occupy any room which may be used or occupied as a sleeping apartment by persons of the female sex.

Such keeper shall not, except in such cases as are herein-after specified, cause or suffer any person of the female sex to use or occupy any room which may be used or occupied as a sleeping apartment by persons of the male sex above the age of *ten years* :

Provided that this byelaw shall not be taken to prohibit the use and occupation by a husband and wife of any room which may not be used or occupied by any other person of either sex above the age of *ten years*, or which may be used, in accordance with the provisions of the byelaw in that behalf, as a sleeping apartment for two or more married couples.

Sleeping rooms for married couples.

4. Every keeper of a common lodging-house shall cause every room therein which may be appointed for use and occupation as a sleeping apartment by two or more married couples to be so furnished or fitted that every bed, when in use and occupation, shall be effectually screened from the view of any occupant of any other bed, by means of a partition of wood or other solid material, which shall be constructed and fixed or placed so as to allow adequate means of access to the bed which such partition is intended to screen, and so as to extend upwards throughout the whole length and breadth of such bed to a sufficient height above such bed, and downwards to a distance of not more than *six inches* above the level of the floor.

Separation of the sexes.—These two clauses deal with the sleeping arrangements of common lodging-houses, and are intended to secure, so far as is deemed necessary or practicable, the separation of the sexes therein. The proviso to clause 3 permits of the joint occupation of a sleeping apartment by a husband and wife, or by a husband and wife and such of their children as may be under ten years of age. It also provides for the occupation of one

room by two or more married couples, if the requirements of clause 4 are complied with. With regard to the screens to be provided under the latter clause, it will be noticed that wood or other solid material is required to be used in their construction. Curtains cannot be regarded as a sufficient substitute for partitions such as are mentioned in the clause. They harbour dirt, and are liable to be torn down or drawn aside by the occupants of the room. Both on the score of decency, therefore, and also as a matter of administration (because the keeper could not reasonably be made responsible for the screens being always in position when required, if they were such as the lodgers could easily displace), solid partitions should always be insisted upon. The partitions should extend to a sufficient height above the floor to secure the privacy of each married couple. They should, therefore, be not less than *six feet* in depth, giving a total height above the floor (including the space which is to be left open beneath them) of *six feet six inches.* The provision of a space of six inches between the floor and the lower edges of the screens is designed to promote cleanliness and ventilation in the room, as the floor can be more readily swept and scrubbed, and the circulation of air is less impeded than if the partitions extended downwards to the floor. The age limit of *ten years* in clause 3 should not be increased.

Use of common lodging-houses as brothels.—Questions have arisen as to whether a byelaw could be framed with a view to preventing a common lodging-house being used as a brothel or otherwise for improper purposes by men and women who are unmarried. It may, however, be doubted whether, with respect to common lodging-houses as a class, regulations more stringent than those embodied in clause 3 could reasonably be prescribed, having regard to the circumstances and mode of life of the class of persons frequenting such houses.

Yards, etc., to be kept clean.

5. Every keeper of a common lodging-house shall cause every yard, area, forecourt, or other open space within the curtilage of the premises to be maintained at all times in good order, and to be thoroughly cleansed, from time to time, as often as may be reasonably necessary for the purpose of keeping such yard, area, forecourt, or other open space in a clean and wholesome condition.

Floors and staircases to be swept, etc.

6. Every keeper of a common lodging-house shall cause the floor of every room or passage and every stair in such house to be thoroughly swept once at least in every day, before the hour of *ten* in the forenoon, and to be thoroughly washed once at least in every week.

Windows, paintwork, etc., to be cleansed.

7. Every keeper of a common lodging-house shall cause every window, every fixture or fitting of wood, stone, or metal, and every painted surface in such house to be thoroughly cleansed, from time to time, as often as shall be requisite.

Cleansing of yards, passages, fittings, etc.—These are byelaws "for promoting cleanliness" of any yard or other open space that may form part

of the premises of the lodging-house ; of the floors, stairs, windows, and paint-work, and of the dressers, cupboards, stoves, sinks, and other fittings within the house. The cleanliness of walls and ceilings is provided for by s. 82 of the Act, which requires the walls and ceilings to be limewashed "to the satisfaction of the local authority" twice a year, viz., in the first week of April and the first week of October. The need of constant supervision, in order to secure due compliance with these regulations, will be apparent.

Beds and bedding to be kept clean.

8. Every keeper of a common lodging-house shall cause all bed-clothes and bedding, and every bedstead used in such house, to be thoroughly cleansed, from time to time, as often as shall be requisite for the purpose of keeping such bed-clothes, bedding, and bedstead in a clean and wholesome condition.

Cleansing of beds and bedding.—The provision and proper furnishing of beds for the use of the lodgers is secured by clause No. 22. The present clause secures the cleanliness of the beds. It extends not only to the bedsteads, and the blankets or other coverings for the sleepers, but also to the mattresses, etc., on which they lie. The byelaws of some local authorities require the bedsteads and bedding to be cleansed at stated times in the year, so that, by inspection at those times, they may ascertain that at least the minimum amount of cleansing is performed ; but although this arrangement may be recommended, the words requiring beds to be cleansed whenever necessary should in all cases be retained.

Notwithstanding the byelaw, in cases where the bedding has been exposed to infection the local authority may deal with it under ss. 120, 121 of the Public Health Act, 1875, or under s. 6 of the Infectious Disease (Prevention) Act, 1890, as the case may be. See also clause 18 of the byelaws, *post*.

Lavatory accommodation to be provided.

9. Every keeper of a common lodging-house shall, for the use of the lodgers received into such house, cause to be provided a sufficient number of basins or other receptacles for water, of adequate capacity and suitably placed, and a sufficient supply of water and a sufficient number of towels for use in connection with such basins or other receptacles. He shall cause such basins or receptacles to be kept clean and in good order, and the supply of towels to be renewed, from time to time, as often as may be requisite.

Provision of lavatory accommodation.—By s. 81 of the Act, if a common lodging-house is without a proper supply of water for the use of the lodgers, the local authority are empowered, subject to certain conditions, to enforce the provision of such a supply to the house generally, by the effective procedure of removing the house from the register until their views in the matter are complied with. The byelaw supplements this enactment by, in effect, requiring that a sufficient quantity of water and other requisites for personal ablution shall be available for each lodger. The clause does not necessarily require the provision of lavatories with fixed basins, water-taps, and discharge pipes ; but, as pointed out in the memorandum of the Local Government Board (p. 53), it is desirable that the washing accommodation should be of

this character. Further, where lodgers of both sexes are admitted, a separate lavatory for women should always be provided. Where this is not done unedifying sights—such as that of a woman, stripped to the waist, washing in the presence of a number of men—are not unknown; while, if proper pressure is brought to bear on the owner or keeper of the house before it is registered, satisfactory arrangements in this respect can almost invariably be secured.

Removal of filth, etc., from rooms.

10. Every keeper of a common lodging-house shall cause all solid or liquid filth or refuse to be removed once at least in every day before the hour of *ten* in the forenoon from every room in such house, and shall once at least in every day cause every vessel, utensil, or other receptacle for such filth or refuse to be thoroughly cleansed.

Removal of filth and refuse from rooms.—The necessity for a byelaw such as this is sufficiently obvious. The special object of the clause is to make the keeper responsible for seeing that the work is done.

Watercloseta, etc., to be kept clean.

11. Every keeper of a common lodging-house shall cause the seat, floor, and walls of every watercloset, earthcloset, or privy belonging to such house to be thoroughly cleansed, from time to time, as often as may be necessary for the purpose of keeping such seat, floor, and walls in a clean and wholesome condition.

Watercloseta to be kept in good order.

12. Every keeper of a common lodging-house shall cause every part of the structure of every watercloset belonging to such house to be maintained at all times in good order, and every part of the apparatus of such watercloset, and every drain or means of drainage with which such watercloset may communicate to be maintained at all times in good order and efficient action.

Earthcloseta, etc., to be kept in good order.

13. Every keeper of a common lodging-house shall cause every earthcloset or privy belonging to such house, and every receptacle for filth provided or used in or in connection with such earthcloset or privy to be maintained at all times in good order and in a wholesome condition.

He shall cause all such means or apparatus as may be provided or used in or in connection with such earthcloset or privy and such receptacle, for the frequent and effectual application of dry earth or other deodorizing substance to any filth deposited in such receptacle, to be maintained at all times in good order and efficient action.

He shall cause a sufficient supply of such dry earth or other deodorizing substance to be, from time to time, provided for use in such earthcloset, privy, or receptacle for filth, and shall cause such dry earth or other deodorizing substance to be frequently and effectually applied to such filth, or he shall cause such dry earth or other deodorizing substance as may, from time to time, be supplied to such house, in pursuance of the statutory provision in that behalf, by the [Council] or by any person with whom they may contract for the purpose to be frequently and effectually applied to such filth.

Privy accommodation.—The local authority cannot include in their byelaws a clause requiring the provision of closet or privy accommodation, but no difficulty will be experienced in securing due provision in this respect, or in controlling the special character of the provision, if, acting under proper instructions, the officer inspecting common lodging-houses preparatory to their registration, refuses to approve any house that has not a sufficient number of properly constructed closets or privies for the separate use of lodgers of each sex. As to the points to be observed in the construction of such conveniences reference may be made to the model byelaws with respect to new buildings, clauses 67 to 79 (see p. 177). The byelaws now under consideration are concerned merely with the keeping of all closets or privies belonging to a common lodging-house in a clean and wholesome condition, and the apparatus and accessories in proper order. The cleansing of earthcloset and privy receptacles comes within the scope of byelaws under the former part of s. 44. (See the model byelaws on pp. 22—24.)

Flushing of waterclosets, and application of deodorants in earthclosets.—The keeping of waterclosets supplied with sufficient water for flushing may be made the subject of a byelaw where s. 23 of the Public Health Acts Amendment Act, 1890, is in force; but such a clause would be out of place in the present series. With regard to the latter part of clause 13 of this series, the local authority should regard it as especially necessary in the case of a common lodging-house to which an earthcloset or a privy is attached, to provide for the effectual deodorization of the filth deposited in such closet or privy. The habits of the persons generally found in common lodging-houses render it unlikely that they will themselves make use of the apparatus provided for the application of dry earth, etc., to the deposits as frequently as is necessary. The local authority are empowered to supply dry earth, etc., for use in connection with earthclosets, by s. 37 of the Public Health Act, 1875.

Structural alterations as regards privy accommodation.—Where a nuisance exists, structural alterations necessary to insure the abatement of the nuisance and the prevention of its recurrence can be enforced by application for an order of justices under s. 96 of the Public Health Act, 1875. The form of order is given in Sched. IV., Form C., of the Act. With reference to the specification in the order of the works required to be done, the following cases have been decided. In *Ex parte Whitchurch* (1881), 6 Q. B. D. 545; 50 L. J. M. C. 41, 99; 29 W. R. 507; 45 J. P. 392, a privy and ashpit were a nuisance, and a notice had been given to abate it, and for that purpose to fill up the ashpit, abandon the privy, and build a pail closet.

On default, the justices made an order under this section in the terms of the notice. The court quashed the order on the ground that under the section the owner could not be compelled to put up a particular kind of closet. Stephen, J., said that the question turned upon the word *necessary*, which could not be extended to mean what the local authority thought necessary. But in *Ex parte Saunders* (1883), 11 Q. B. D. 191 ; 52 L. J. M. C. 89 ; 47 J. P. 404, a watercloset in the centre of a house being a nuisance, the sanitary authority gave notice to the owner, under s. 94, to abate the nuisance, and for that purpose to remove the said closet from the centre of the house, and place it near an outer wall, where there might be efficient ventilation, and to fix the soil pipe outside the wall. The owner having made default, an order was made under this section to do the things specified. It was held that the justices had jurisdiction to make the order. The court (Cave and A. L. Smith, JJ.) intimated that *Ex parte Whitchurch* was distinguishable, on the ground that the order was not for the erection of a particular kind of closet where none existed before, but for the removal of a closet to a place where it would not be a nuisance. In *R.* v. *Llewellyn* (1884), 13 Q. B. D. 681 ; 33 W. R. 150 ; 49 J. P. 151, a privy openly discharged night soil and offensive matter on the bank of a river. The sanitary authority served the owner of the premises with notice to abate the nuisance, and for that purpose to "remove the present pipes and pan, level the floor under the seat of the privy, and provide a galvanised double-handled pail under the seat, the cover of the said seat to be movable, so that the premises should no longer be a nuisance or injurious to health." The justices made an order in the terms of the notice, and it was held they had jurisdiction to make the order. The court adopted the decision in *Ex parte Saunders*, saying that if it differed from *Ex parte Whitchurch* they differed also. After this decision it was clear that the cases were in conflict, and, accordingly, when the point again arose in *R.* v. *Kent JJ.* (*infra*), the court (Hawkins and Smith, JJ.) ordered it to be argued before three judges. The case was eventually decided by Field, Manisty, and Wills, JJ. It appeared that an order had been made requiring the appellant, *inter alia*, to lay down a six-inch glazed stoneware drainpipe, and to connect it with the main sewer in front of his house. It was held that there was jurisdiction to make the order, and the court overruled *Ex parte Whitchurch.* (*R.* v. *Kent JJ.* (1885), 49 J. P. 404 ; 55 L. J. M. C. 9 ; 1 T. L. R. 539.) In *Whitaker* v. *Derby Urban Sanitary Authority* (1885), 55 L. J. M. C. 8, the respondents had served on the owner of houses to which were attached privies and ashpits, which were a nuisance, a notice requiring him to abate the nuisance, and "for that purpose to deodorise and fill in the privies, privy vaults and ashpits, convert the same to proper pan waterclosets, and connect them with the main sewer." This notice was not complied with, and an order was thereupon made by justices in the terms of the notice. It was held that the order was good, as the above section left it absolutely to the justices to order any works or structural alterations which they in their discretion might think necessary for the abatement of the nuisance. Finally, in *R.* v. *Wheatley* (1885), 16 Q. B. D. 34 ; 55 L. J. M. C. 11 ; 34 W. R. 257 ; 50 J. P. 424, where an order of justices required the owner of premises to abate a nuisance arising from untrapped drains, and "to execute such works and do such things as may be necessary for that purpose, so that the same shall no longer be a nuisance or injurious to health," it was held that the order was bad, because it did not specify what works and things the owner should execute and do for the purpose of abating the nuisance. It may be mentioned here that the order made under this section is an order made in a

criminal cause or matter within the meaning of the Judicature Act, 1873 (36 & 37 Vict. c. 66), s. 47, and that when the Queen's Bench Division has granted a *certiorari* to quash the order, an appeal will not lie to the Court of Appeal (*Reg.* v. *Whitchurch* (1881), 7 Q. B. D. 534; 50 L. J. M. C. 99; 45 J. P. 617; and see *Ex parte Schofield*, [1891] 2 Q. B. 428; 60 L. J. M. C. 157; 64 L. T. 780; 39 W. R. 580; 56 J. P. 4; 17 Cox C. C. 303; 7 T. L. R. 615.

Condition and use of ashpits.

14. Every keeper of a common lodging-house shall cause every ashpit belonging to such house to be maintained at all times in good order and in a wholesome condition.

He shall not cause or suffer any filth or wet refuse to be thrown into any ashpit constructed and adapted for use only as a receptacle for ashes, dust, and dry refuse.

Ashpits.—As to what is an ashpit, see note on p. 25. The mode of construction of fixed ashpits should be such as to comply with the requirements of clauses 80—85 of the Model Byelaws as to New Buildings (see pp. 191—193). The byelaw now under consideration requires the ashpit, whether fixed or movable, to be kept in a good and wholesome condition. Where the ashpit is not connected with a privy, great care should be taken to prevent filth or wet refuse being thrown into it. A dry accumulation in the ashpit may, by the admixture of wet refuse, become highly offensive. As to the cleansing of ashpits, see also p. 25.

Means of ventilation to be kept in good order.

15. Every keeper of a common lodging-house shall cause all such means of ventilation as may be provided in or in connexion with any room or passage in such house and in or in connexion with any watercloset, earthcloset, or privy belonging to such house to be maintained at all times in good order and efficient action.

Windows to be opened.

16. Every keeper of a common lodging-house shall, except in such cases as are herein-after specified, cause every window in every room in such house which may be appointed for use and occupation as a sleeping apartment to be opened and to be kept fully open for *one hour* at least in the forenoon, and for *one hour* at least in the afternoon of every day:

Provided that such keeper shall not be required, in pursuance of this byelaw, to cause any such window to be opened or to be kept open at any time when the state of the weather is such as to render it necessary that the window should be closed, or when any bed in such room may be occupied by any lodger in consequence of sickness or of other sufficient cause.

Ventilation of rooms and passages.—As to what may be regarded as proper means of ventilation, and the method of securing these, see the prefatory memorandum and the note thereon (p. 55). The necessity for

the opening of windows in sleeping rooms would not be sufficiently recognised if the matter were left to the occupants of the rooms. The byelaw (No. 16), therefore, makes the keeper responsible in the matter. It is so framed as to provide for the occupation, during the day, of beds by lodgers who are at work during the night, as well as for cases of sickness, etc.

Beds and bed-clothes to be aired.

17. Every keeper of a common lodging-house shall cause the bed-clothes of every bed in such house to be removed from such bed as soon as conveniently may be after such bed shall have been vacated by any lodger, and shall cause all such bed-clothes and the bed from which such bed-clothes may have been removed to be freely exposed to the air for *one hour* at least in the forenoon or for *one hour* at least in the afternoon of every day.

Airing of beds and bed-clothes.—To comply with this byelaw, every bed must be completely stripped immediately after being vacated, and both bed and bed-clothes must be freely exposed to the air during the time prescribed.

Precautions in case of infectious disease.

18. Every keeper of a common lodging-house, immediately after he shall have been informed or shall have ascertained that any lodger in such house is ill of any infectious disease, shall adopt all such precautions as may be necessary to prevent the spread of such infectious disease.

Such keeper shall not, at any time while such lodger is suffering from such infectious disease, cause or allow any other person, except the wife or any other relative of such lodger, or except a person voluntarily in attendance on such lodger, to use or occupy the same room as such lodger.

Where, in pursuance of the statutory provision in that behalf, the [Council] may order the removal of such lodger to a hospital or other place for the reception of the sick, such keeper, on being informed of such order, shall forthwith take all such steps as may be requisite on his part to secure the safe and prompt removal of such lodger in compliance with the order of the [Council], and shall, in and about such removal, adopt all such precautions as, in accordance with any instructions which he may receive from the medical officer of health, may be most suitable for the circumstances of the case.

Where, in consequence of the illness of such lodger, there may be reasonable grounds for apprehending the spread of infection through the admission of lodgers to any room or rooms in such house or through the admission to such room or rooms of the maximum number of lodgers authorised to be received therein, such keeper, after being furnished with the

necessary instructions from the medical officer of health, and until the grounds for apprehending the spread of infection shall have been removed, shall cease to receive any lodger in such room or rooms or shall receive therein such number of lodgers, being less than the maximum number, as the exigencies of the case may require.

Such keeper shall, immediately after the death, removal, or recovery of any lodger who may have been ill of any infectious disease, give written notice thereof to the medical officer of health, and shall, as soon as conveniently may be, cause every part of the room which may have been occupied by such lodger to be thoroughly cleansed and disinfected, and shall also cause every article in such room which may be liable to retain infection to be in like manner cleansed and disinfected unless the [Council] shall have ordered the same to be destroyed.

He shall comply with all instructions of the medical officer of health as to the proper cleansing and disinfection of the room and articles.

When the same shall have been thoroughly cleansed and disinfected in accordance with such instructions, he shall give written notice thereof to the medical officer of health; and, until two days from the giving of such notice shall have elapsed, and unless and until by such cleansing and disinfection the necessary precautions for preventing the spread of disease shall have been duly taken, such keeper shall not cause or suffer any other lodger to be received into the room which, in the case herein-before specified, may have been exposed to infection.

Precautions in case of infectious disease.—Section 84 of the Public Health Act, 1875, requires that where a person in a common lodging-house is ill of fever or any infectious disease, the keeper shall give immediate notice of the fact to the medical officer of health and the relieving officer. If he fails to do so, he is liable, under s. 86, to a penalty of 5*l.*, and to an additional daily penalty of 40*s.* But in places where s. 32 of the Public Health Acts Amendment Act, 1890, is in force, these penalties are reduced to 40*s.* and 5*s.* a day. See also the provisions of the Infectious Disease (Notification) Act, 1889 (52 & 53 Vict. c. 72). Paragraphs 1 and 2 of this byelaw impose on the keeper the duty of taking proper precautions against the spread of infection. In particular, no other person, except the wife or other relative of the patient, or a person voluntarily in attendance upon him, is to be allowed to enter the room occupied by the patient. By s. 124 of the Act, the local authority are empowered, with the consent, and on the certificate therein mentioned, to order the removal to a hospital of any lodger in a common lodging-house who is suffering from any dangerous infectious disorder. The third paragraph of the byelaw requires the keeper, on such order being made to take all requisite

steps to secure that the removal of the patient is safely and promptly effected. In respect of the precautions to be taken in connection with a patient's removal to hospital, or his recovery or death in the lodging-house, and the use of the room by other lodgers, the keeper is to act under the instructions of the medical officer of health.

In case of the death of the lodger where the Infectious Disease (Prevention) Act, 1890, is in force, s. 8 of that Act prohibits the retaining of the unburied body, without the written sanction of the medical officer of health, or of a registered medical practitioner, for more than forty-eight hours, elsewhere than public mortuary or room not used at the time as a dwelling place, sleeping place, or workroom. And in cases where this provision is not carried out, s. 10 of the same Act enables a justice to make an order for the removal and burial of the body.

The provisions of the byelaw as to cleansing and disinfection are supplementary to, but not exclusive of, the application of ss. 120 and 121 of the Public Health Act, 1875, and of ss. 5 and 6 of the Infectious Disease (Prevention) Act, 1890, where that Act is in force.

Kitchens, etc., not to be used as sleeping rooms.

19. A keeper of a common lodging-house shall not, at any time, cause or suffer any room which may be appointed for use as a kitchen or scullery to be used or occupied as a sleeping apartment.

Use of kitchens, etc., as sleeping rooms.—The kitchen of a common lodging-house is often used as a day-room for the lodgers; but, apart from this, the unwholesomeness of the use of kitchens as sleeping apartments is too obvious to need any comment in connection with a series of byelaws embodying clauses "for the well ordering of such houses."

Use of double beds for men and youths.

20. A keeper of a common lodging-house shall not cause or suffer any bed in any room which may be used as a sleeping apartment by persons of the male sex above the age of *ten years*, to be occupied at any one time by more than one such person.

Double beds for men and youths.—Such a clause as this should be found in any series of byelaws framed under s. 80 of the Act. The age limit of *ten years* cannot safely be increased. The regulations with respect to common lodging houses in force in the metropolis require every sleeping room occupied by single men to be furnished with bedsteads and bedding of a size adapted for one person only.

Interval between successive occupations of same bed.

21. A keeper of a common lodging-house shall not cause or suffer any lodger to occupy any bed in such house at any time within the period of *eight hours* after such bed shall have been vacated by the last preceding occupant thereof.

Successive occupations of same bed.—The interval prescribed by this byelaw is required for sweeping and ventilating the room, and removing filth therefrom, and for the proper airing of the beds and bed-clothes. On more

specific sanitary grounds, it is necessary, in connection with the successive use of the same bed by different persons, which, though objectionable in itself, must be regarded as unavoidable in a common lodging-house.

Provision of beds and utensils for sleeping rooms.

22. Every keeper of a common lodging-house shall cause every room in such house, which may be appointed for use and occupation as a sleeping apartment, to be furnished with such number of beds and bedsteads, and with such a supply of bed-clothes and of necessary utensils as may be sufficient for the requirements of the number of lodgers received into such room.

Furnishing of sleeping-rooms.—The provision of a sufficient number of suitable bedsteads is a matter intimately connected with the "well-ordering" of a common lodging-house. Apart from other objections, where beds are made upon the floor, their condition is usually most unwholesome. Iron bedsteads are to be preferred to wooden ones, and might be required by a modification of the byelaws.

Notices or placards as to maximum number of lodgers.

23. Every keeper of a common lodging-house, on receiving from the [Council] a notice or placard wherein shall be stated the description or number of the room to which such notice or placard may apply, and the maximum number of lodgers authorised to be received at any one time in such room, shall put up or affix and continue such notice or placard in a suitable and conspicuous position in such room, and in such a manner that the words and figures in such notice or placard may be clearly and distinctly visible and legible.

He shall not, at any time, wilfully conceal, deface, alter, or obliterate any letter or figure in such notice or placard, or wilfully or carelessly injure or destroy such notice or placard.

Byelaws to be displayed if required.

24. Every keeper of a common lodging-house, on receiving from the [Council], for the purpose of exhibition in such house or in any room therein, a copy or copies of any byelaw or byelaws for the time being in force with respect to common lodging-houses, shall put up or affix and continue such copy or copies in a suitable and conspicuous position in such house, or in such room, and in such a manner that the contents of such copy or copies may be clearly and distinctly visible and legible.

He shall not, at any time, wilfully conceal, deface, alter, or obliterate any part of the contents of such copy or copies, or wilfully or carelessly injure or destroy such copy or copies.

Maximum number of lodgers, etc., to be displayed.—In connection with Byelaw No. 23, see clauses Nos. 1 and 2, and the notes thereon. It is to the

interest both of the keeper and of the lodgers, as well as a convenience to the officers of the local authority, that a copy of the byelaws, and such particulars as are mentioned in clause 23, should at all times be available for reference in every room.

Penalties.

25. Every keeper of a common lodging-house who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of , and in the case of a continuing offence to a further penalty of for each day after written notice of the offence from the [Council]:

Provided, nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment as a penalty of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalties.—Any sums up to "*five pounds*" and "*forty shillings*" may be inserted.

Recovery of penalties.—As to this see s. 251 of the Public Health Act, 1875, and notes thereon in Lumley's Public Health, 5th ed., p. 333.

Repeal.—The following clause should be added to the series, if there are any byelaws in force as to common lodging-houses, and the district council are desirous of repealing such byelaws.

Repeal of Byelaws.

26. From and after the date of the confirmation of these byelaws, the byelaws relating to which were made on the day of in the year one thousand eight hundred and , and were confirmed on the day of in the year one thousand eight hundred and by [one of Her Majesty's Principal Secretaries of State] [the Local Government Board] shall be repealed.

SERIES IV.

NEW STREETS AND BUILDINGS.

NEW STREETS AND BUILDINGS.

MEMORANDUM.

Section 157 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), provides that "every urban authority may make byelaws with respect to the following matters; (that is to say,) 38 & 39 Vict. c. 55, s. 157.

"(1.) With respect to the level width and construction of new streets, and the provisions for the sewerage thereof:

"(2.) With respect to the structure of walls, foundations, roofs, and chimneys of new buildings, for securing stability and the prevention of fires, and for purposes of health:

"(3.) With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings:

"(4.) With respect to the drainage of buildings, to water-closets, earthclosets, privies, ashpits, and cesspools in connection with buildings, and to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation:

"And they may further provide for the observance of such byelaws by enacting therein such provisions as they think necessary as to the giving of notices, as to the deposit of plans and sections by persons intending to lay out streets or to construct buildings, as to inspection by the urban authority, and as to the power of such authority (subject to the provisions of this Act) to remove, alter, or pull down any work begun or done in contravention of such byelaws:

"Provided that no byelaw made under this section shall affect any building erected in any place (which at the time of

the passing of this Act is included in an urban sanitary district) before the Local Government Acts came into force in such place, or any building erected in any place (which at the time of the passing of this Act is not included in an urban sanitary district) before such place becomes constituted or included in an urban district, or by virtue of any order of the Local Government Board subject to this enactment.

"The provisions of this section . . . shall not apply to buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament."

In connection with the subject of byelaws with respect to new streets and buildings the two following sections (158, 159) are important.

Sections 158 and 159 are in these terms:—

38 & 39 Vict. c. 55, s. 158.

(Section 158.) "Where a notice, plan, or description of any work is required by any byelaw made by an urban authority to be laid before that authority, the urban authority shall, within one month after the same has been delivered or sent to their surveyor or clerk, signify in writing their approval or disapproval of the intended work to the person proposing to execute the same; and if the work is commenced after such notice of disapproval, or before the expiration of such month without such approval, and is in any respect not in conformity with any byelaw of the urban authority, the urban authority may cause so much of the work as has been executed to be pulled down or removed.

"Where an urban authority incur expenses in or about the removal of any work executed contrary to any byelaw, such authority may recover in a summary manner the amount of such expenses either from the person executing the works removed or from the person causing the works to be executed, at their discretion.

"Where an urban authority may, under this section, pull down or remove any work begun or executed in contravention of any byelaw, or where the beginning or the execution of the work is an offence in respect whereof the offender is liable in respect of any byelaw to a penalty, the existence of the work during its continuance in such a form and state as to be in contravention of the byelaw shall be deemed to be a

continuing offence, but a penalty shall not be incurred in respect thereof after the expiration of one year from the day when the offence was committed or the byelaw was broken."

(Section 159.) "For the purposes of this Act, the re-erecting of any building pulled down to or below the ground floor, or of any frame building of which only the framework is left down to the ground floor, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only, shall be considered the erection of a new building." 38 & 39 Vict. c. 55, s. 159.

In connection with the byelaws authorised by section 157 (3 and 4), and with the interpretation of the important proviso in that section, the attention of the sanitary authority may be usefully directed to the cases of *Tucker* v. *Rees*, 7 Jur. (N.S.) 629, and *Burgess* v. *Peacock*, 16 C.B. (N.S.) 624; 10 L.T. (N.S.) 617. *Tucker* v. *Rees*. *Burgess* v. *Peacock*.

JOHN LAMBERT,
Secretary.

Local Government Board,
25th July, 1877.

Local Authorities competent to adopt the model byelaws.—Byelaws with respect to new streets and buildings comprising all the clauses of the model series, can be made only by an urban district council, or by a rural district council, invested by an order of the Local Government Board under s. 276 of the Act, with the powers of an urban authority under s. 157. A rural district council, however, may, by adopting so much of Part III. of the Public Health Acts Amendment Act, 1890, as may be adopted by them under ss. 3 and 50 of that Act, obtain power to make byelaws with respect to new buildings dealing with the following matters only:—

The structure of walls and foundations of new buildings for purposes of health (clauses 10, 17, and 27 of the model series);

The sufficiency of the space about buildings to secure a free circulation of air, and the ventilation of buildings (clauses 53 to 59);

The drainage of buildings, waterclosets, earthclosets, privies, ashpits and cesspools in connection with buildings, and the closing of buildings or parts of buildings unfit for human habitation, and prohibition of their use for such habitation (clauses 60 to 90);

The giving of notices, the deposit of plans and sections by persons intending to construct buildings, inspection by the council, and the removal, alteration, or pulling down of any work begun or done in contravention of the byelaws (clauses 92—95 and 97).

The same limited power to make byelaws as to new buildings could be obtained by a rural district council who were not desirous of adopting Part III. of the Act of 1890, by applying to the Local Government Board under s. 5 of the Act, to issue an order declaring s. 23 (3) to be in force in their district, or in a specified part thereof. Where any such application is made, or where an application for "urban powers" under s. 157 of the Act of 1875 is made by a rural district council, the instructions in the Introduction should be observed. In either of the above cases the following clauses of the model series must be omitted, viz., clauses 3—9, 11—16, 18—26, 28—52, 91 and 96.

All references to "streets," wherever thay occur in the remaining clauses, must also be omitted.

Additional byelaws under 53 & 54 Vict. c. 59.—Reference has been made in the previous note, to certain subjects upon which byelaws are authorised by s. 157 of the Public Health Act, 1875, which can be dealt with by rural district councils adopting Part III. of the Public Health Acts Amendment Act, 1890, and in regard to which provisions will be found in the model code. Section 23 of the Act of 1890, however, confers upon the local authority of any district in which it is in force (whether by adoption or otherwise) the additional power of making byelaws on the following subjects :—

(*a*) The keeping waterclosets supplied with sufficient water for flushing ;

(*b*) The structure of floors, hearths and staircases, and the height of rooms intended to be used for human habitation ;

(*c*) The paving of yards and open spaces in connection with dwelling-houses ;

(*d*) The provision in connection with the laying out of new streets of secondary means of access where necessary for the purpose of the removal of house refuse and other matters ;

(*e*) The prevention of buildings, which have been erected in accordance with byelaws made under the Public Health Acts, being altered in such a way that if at first so constructed they would have contravened the byelaws.

In this list, paragraphs (*a*) and (*e*) relate to matters in regard to which "every local authority" can, by adopting Part III. of the Act, obtain power to make byelaws. Paragraph (*b*) likewise, so far as it relates to the structure of floors and the height of rooms to be used for human habitation, applies to every local authority adopting Part III. of the statute. The remaining subjects—those referred to in paragraphs (*c*) and (*d*), and the structure of hearths and staircases referred to in paragraph (*b*)—can only be dealt with by an urban district council adopting Part III., or a rural district council invested with the necessary urban powers.

Streets and buildings to which the byelaws apply.—It will be observed that, as regards both s. 157 of the Public Health Act, 1875, and s. 23 of the Public Health Acts Amendment Act, 1890, the power of making byelaws as to streets is limited to the case of "new streets." As regards buildings, it will be seen that, while the provisions of the former section, relating to the structure of walls, foundations, roofs and chimneys and the deposit of plans and sections, are limited to new or intended buildings, the rest of the section applies generally to "buildings." So far as the model series is concerned, however, the byelaws as to buildings are limited throughout to "new

buildings," except as regards the clauses relating to waterclosets, earthclosets, privies, ashpits and cesspools in connection with buildings, and the closing, etc., of buildings unfit for human habitation. But although the statute authorises byelaws on some matters to be made so as to affect existing buildings—and the model clauses as to waterclosets, etc., are in fact so drawn—the the proviso to s. 157 has the effect, so far as regards buildings existing at the time when the byelaws are made, of limiting the application of any byelaws made under the section to such buildings as may have been erected (in the case of a place which, at the time of the passing of Act—*i.e.*, 11th August, 1875—was included in an urban sanitary district) before the Local Government Acts* came into force in such place, and (as regards places which, at the time of the passing of the Act, were not included in any urban sanitary district) before such places became constituted or included in an urban district, or were made subject to this enactment by virtue of any order of the Local Government Board.

In connection with this proviso, the cases of *Tucker* v. *Rees*, and *Burgess* v. *Peacock*, which are referred to in the memorandum of the Local Government Board, may now be considered.

In *Tucker* v. *Rees* (1861), 7 Jur. (N.S.) 629 ; 25 J. P. 789, a local board of health had made a byelaw under s. 34 of the Local Government Act, 1858 (21 & 22 Vict. c. 98), that wherever any open space had been left belonging to any building, such space should never afterwards be built upon without the consent of the board or some committee appointed and authorised by the board, and without leaving an open space belonging to such building of a specified size and dimensions. And it was held that if the byelaw applied to open spaces belonging to old buildings, it was bad, as exceeding the powers conferred by s. 34. It is not quite clear what was meant by "old buildings" here ; but seeing that the byelaw in question was not confined to buildings erected after the constitution of the district, as it should have been by reason of the proviso to s. 34 of the Local Government Act, 1858, but in terms applied to "any building," the better view would seem to be that this was the real ground of the decision, and not that the byelaw could not properly have applied to *any* building existing at the date when the byelaws were made. This view would be consistent with the decision in *Burgess* v. *Peacock* (1864), 16 C. B. (N.S.) 624 ; 10 L. T. (N.S.) 617 ; 10 Jur. (N.S.) 803, where it was held that s. 34 of the Local Government Act, 1858, did not authorise a local board of health to make any byelaw with respect to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation, so as to affect premises erected prior to the date of the formation of the district of the local board.

The provision in s. 23 (2) of the Public Health Acts Amendment Act, 1890, must next be referred to. This sub-section enacts that any byelaws under s. 157 of the Act of 1875, with regard to the drainage of buildings, and to waterclosets, earthclosets, privies, ashpits, and cesspools in connection with buildings, may be made so as to affect buildings erected before the times mentioned in the said section. The same provision is made with reference to byelaws under the Act of 1890, as to keeping waterclosets supplied with sufficient water for flushing. An addition to clause No. 1 of the Local Government Board's model series, by adopting which the byelaws as to waterclosets, etc., may be extended (where s. 23 (2) of the Act of 1890

* See definition in Schedule V. to the Public Health Act, 1875.

is in force) so as to apply to all existing as well as all new buildings is suggested on p. 90.

Besides the limitations as to time prescribed by s. 157, the section contains an express exemption in favour of buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament.

This exemption does not, however, enable a railway company to build cottages for their servants without complying with the byelaws, for such buildings are not "used for the purposes of the railway" within the meaning of the proviso (*Manchester, Sheffield, and Lincolnshire Rail. Co.* v. *Barnsley Union* (1892), 56 J. P. 679 ; 67 L. T. (N.S.) 119).

Some further exemptions are provided for by clause 2 of the Model Byelaws.

What is a "new street."—The word *street* in s. 157 is used with reference to *new streets*, and was held to mean not only the roadway but the roadway with the houses. In *Baker* v. *Mayor, etc. of Portsmouth* (1877), 3 Ex. D. 4 ; 37 L. T. (N.S.) 381 ; 25 W. R. 677 ; affirmed in the Court of Appeal (1878), 3 Ex. D. 157 ; 47 L. J. Ex. 223 ; 37 L. T. (N.S.) 822 ; 26 W. R. 303 ; 42 J. P. 278, BRAMWELL, L.J., said : "I have come to the conclusion that the words of sub-section (1) 'with respect to the level, width, and construction of new streets,' include the construction of the buildings, and the buildings themselves and front gardens, or whatever else is at the side of the roadway. I have come to this conclusion, not upon any authority, for I cannot see that any authority has any bearing upon the matter, except to show that the word *street* may have such a meaning, but because it is the right meaning of the words." A similar interpretation had been put upon the term as used in a local Act in *Galloway* v. *Corporation of London* (1866), L. R. 1 H. L. 34 ; 35 L. J. Ch. 477 ; 12 Jur. (N.S.) 747 ; 14 L. T. (N.S.) 865 ; 30 J. P. 580, though it was said, in another case decided upon a different section of the same Act, that this was not the *primâ facie* meaning of the word, and it was accordingly held that the word, as used in the last-mentioned section, did not include the houses. (*London, Chatham, and Dover Rail. Co.* v. *Mayor, etc. of London* (1868), 19 L. T. (N.S.) 250.) An urban authority made a byelaw under the Public Health Act, 1875, directing that all new streets should be of a width of not less than ten feet. Certain ways existed communicating with the backs of houses, and used by the urban authority, who did the scavenging of the town, for the purpose of obtaining access to privies and ashpits in order to remove the contents thereof. Plans were submitted for approval to the urban authority, showing ways, such as are above described, of the width of six feet ; and the urban authority, acting under the byelaw, refused to approve such plans. It was held, discharging a rule for a *mandamus* to compel the approval of the plans, that the ways in question were "passages" within the meaning of the above definition, and, therefore, streets (*R.* v. *Goole Local Board*, [1891] 2 Q. B. 212 ; 60 L. J. Q. B. 617 ; 64 L. T. (N.S.) 595 ; 30 W. R. 608 ; 55 J. P. 535). A *cul-de-sac* may be a street and public highway (*Souch* v. *East London Rail. Co.* (1873), L. R. 16 Eq. 105 ; 42 L. J. Ch. 477 ; 21 W. R. 590 ; 37 J. P. 644). So also a highway, one end of which has been legally stopped (*R.* v. *Burney* (1871), 39 J. P. 599 ; 31 L. T. 828). But a way ceases to be a public highway when access at both ends has been cut off legally (*Bailey* v. *Jamieson* (1876), 1 C. P. D. 329 ; 34 L. T. (N.S.) 62 ; 24 W. R. 456 ; 40 J. P. 486). The case of *Baker* v. *Mayor, etc. of Portsmouth* (*supra*) was approved by the House of Lords in *Robinson* v. *Barton Local Board* (1883), 8 App. Cas. 798 ; 53 L. J. Ch.

226 ; 50 L. T. (N.S.) 57 ; 32 W. R. 249 ; 48 J. P. 276, where it was held that a country lane, which had long been a *street* within the meaning of the definition, might become a *new street* when houses came to be built by the side of it. This had already been decided under the Metropolis Management Acts in *Pound* v. *Plumstead Board of Works* (1871), L. R. 7 Q. B. 183 ; 41 L. J. M. C. 51 ; 25 L. T. (N.S.) 461 ; 20 W. R. 117 ; 36 J. P. 468 ; *Dryden* v. *Overseers of Putney* (1876), 1 Ex. D. 223 ; 34 L. T. (N.S.) 69 ; 40 J. P. 263.

It has been stated that the question whether a place is a street is a question of fact only after it has been determined in what sense the word street is used in the particular case under consideration. (See *Eccles* v. *Wirral Union* (1886), 16 Q. B. D. 107.) But it is always a question of fact whether a place already a street, as defined in s. 4 of the Public Health Act, 1875, has become a new street (*R.* v. *Dayman*, 7 E. & B. 672 ; 26 L. J. M. C. 128 ; 3 Jur. (N.S.) 744 ; 22 J. P. 39 ; *R.* v. *Fullford*, 33 L. J. M. C. 122 ; 10 L. T. (N.S.) 346 ; 10 Jur. (N.S.) 522 ; 12 W. R. 715 ; 28 J. P. 357 ; *R.* v. *St. Mary, Islington*, E. B. & E. 743 ; 22 J. P. 383 ; *St. Mary, Islington* v. *Barrett*, L. R. 9. Q. B. 278 ; 43 L. J. M. C. 85 ; 30 L. T. (N.S.) 11 ; 38 J. P. 198 ; *Dodd* v. *Vestry of St. Pancras*, 34 J. P. 517 ; *Bowles* v. *St. Mary, Islington*, 39 J. P. 757 ; *R.* v. *Shiel*, 50 L. T. (N.S.) 590 ; *Wilson* v. *St. Giles, Camberwell* (*Vestry of*), [1892] 1 Q. B. 1 ; 61 L. J. M. C. 3 ; 65 L. T. (N.S.) 790 ; 40 W. R. 41 ; 56 J. P. 167 ; 8 T. L. R. 20 ; *St. Giles, Camberwell* (*Vestry of*) v. *Crystal Palace Co.*, [1892] 2 Q. B. 33 ; 61 L. J. Q. B. 802 ; 66 L. T. (N.S.) 840 ; 40 W. R. 648 ; 57 J. P. 5 ; 8 T. L. R. 233. And see also *North London Rail. Co.* v. *St. Mary, Islington* (1873), 27 L. T. (N.S.) 672 ; 21 W. R. 226 ; 37 J. P. 341 ; *Robinson* v. *Barton Local Board* (*supra*), and the cases cited in the note on the question of what amounts to laying out a new street. It is to be observed, however, that the court will inquire whether there has been *any* evidence to justify the finding of the justices (*Williams* v. *Powning* (1883), 48 L. T. (N.S.) 672 ; *Midland Rail. Co.* v. *Watton* (1886), 17 Q. B. D. 30 ; 34 W. R. 524 ; 55 L. J. M. C. 99 ; 54 L. T. (N.S.) 482 ; 50 J. P. 405).

What is "laying out a new street."—Where the owner of a strip of land by the side of a lane, which ran into a road, began to build on a portion of his land a house fronting to the road, the side of which abutted on the lane, and there was nothing to show any intention on his part of building other houses along the lane on the remainder of his land, it was held that he was not laying out a new street along the lane (*St. George's Local Board* v. *Ballard*, [1895] 1 Q. B. 702 ; 64 L. J. Q. B. 547 ; 72 L. T. 345 ; 43 W. R. 409 ; 59 J. P. 182 ; 14 R. 293). In *Williams* v. *Powning* (1883), 47 J. P. 486 ; 48 L. T. (N.S.) 672 it appeared that W. had ground abutting on one side of a lane two hundred and fifty feet long and six feet wide, adjoining a town. There were no houses in the lane. W. built six cottages standing back fifteen feet from the lane. The lane was within an urban district, the byelaws of which required new streets (not being carriage ways) to be eighteen feet wide. W. was convicted of having laid out a new street contrary to the byelaws. It was held that the conviction was wrong, the mere fact of six cottages being built in the lane not making it a new street. The court considered that there was no evidence to justify the finding ; but when there is any evidence the court will not enquire into its sufficiency. See also *Robinson* v. *Barton Local Board* (*supra*) ; *North London Rail. Co.* v. *St. Mary, Islington* (1873), 27 L. T. (N.S.) 672 ; 21 W. R. 226 ; 37 J. P. 341 ; *Vestry of St. Mary, Battersea* v. *Palmer*, [1897] 1 Q. B. 220 ; 60 J. P. 774 ; 86 L. J. Q. B. 77 ; 75 L. T. 362 ; 13 T. L. R. 20 ; 45 W. R. 110.

What is a "building."—In *Fielding* v. *Rhyl Improvement Commissioners* (1878), 3 C. P. D. 272; 38 L. T. (N.S.) 223; 26 W. R. 881; 42 J. P. 311, DENMAN, J., said that "the word 'building' *primâ facie* means every structure that could in any sense be called a building, even if erected for a mere temporary purpose." But for the purposes of the Public Health Acts the word is not to be used in this extended sense. Regard must be had to the object and purpose of the building and the object of the byelaws. The decisions quoted under the paragraph "What is a 'new building'" illustrate this. In *Slaughter* v. *Mayor of Sunderland* (1891), *infra*, VAUGHAN-WILLIAMS, J., defined "building" as meaning "a structure which has, or is adapted for including in its composition some one of the features which are dealt with in the byelaws."

What is a "new building."—By s. 159 of the Public Health Act, 1875, it is enacted: "For the purposes of this Act the re-erecting of any building pulled down to or below the ground floor, or of any frame building of which only the framework is left down to the ground floor, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only, shall be considered the erection of a new building." The section, it will be observed, does not exhaust the definition of a new building; it only describes what shall be considered to be a new building in particular cases. It does not provide for the conversion of a dwelling-house into a house for other purposes, such as a factory or hall for public meetings, although it provides for the conversion of a house into a dwelling-house. It is probably intended that such a conversion would not amount to the erection of a new building under the Public Health Act or under the byelaws. If this construction be correct there seems to be no means of controlling or preventing such a conversion, although the converted premises would be unsuited for the purposes intended.

Subject to s. 159 of the Public Health Act, 1875, it may be said that the question whether in any particular case a "new building" has been erected or commenced, is one for the decision of the justices before whom any proceedings may be taken for the enforcement of the byelaws. The mere alteration of a building, even where the alterations are extensive, cannot be dealt with by means of byelaws under s. 157 of the Act of 1875. (As to this, see s. 23 (4) of the Public Health Acts Amendment Act, 1890.) In certain cases the nature and extent of the alterations may be such as to bring the work (independently of s. 159) within the scope of the byelaws affecting new buildings. But, as before stated, this is a matter for the decision, in the first instance, of the justices. "The question," said Lord COLERIDGE, C.J., in *James* v. *Wyrill* (1884), 48 J. P. 725; 51 L. T. 237, "whether a building is a new building or not, has been decided over and over again to be a question of fact: it is a question of degree. For instance, if a building were nearly all taken away and then rebuilt, it clearly would be a new building; on the other hand, it is quite clear that by a small addition of, say, a door, the building would not therefore become a new building. Between these two extreme cases there may be thousands of cases, and it would be impossible to give a definition in each particular case as to what is, or is not, a new building; and it must be left to the discretion of each judge to decide for himself what is a new building. So that the question is and must be a question of fact."

Where certain premises were used and occupied as a public-house, known

as the "Old Swan," and were partly pulled down to the ground, the old garden wall dividing it from the adjoining premises had in some places been taken down to the foundation and rebuilt with a suite of rooms erected above it, and the structure erected was a comfortable, good-looking dwelling-house, which before it was not, and the magistrate found that the structure was a new building, the court refused to disturb the finding on the ground that it was a question of fact (*James* v. *Wyrill* (*supra*)).

A stable in a yard at the rear of certain premises was pulled down and re-erected, of smaller superficial dimensions, but somewhat higher, in another part of the same yard, the old materials—with some addition, and the boundary walls of the yard—being made use of in such re-erection. The court held, reversing the decision of the justices, that this was a "new building" within the corresponding provisions of the Local Government Act, 1858 (21 & 22 Vict. c. 98), s. 34, and byelaws made thereunder (*Hobbs* v. *Dance* (1873), L. R. 9 C. P. 30; 43 L. J. M. C. 21; 29 L. T. (N.S.) 687; 22 W. R. 90; 38 J. P. 56). The court was not precluded from disturbing the decision of the justices, because the point reserved was one of law for the opinion of the court. KEATING, J., said: "I am of opinion that the magistrates did not intend to refer to us a question of fact. What they have referred to us is whether, looking at the Act of Parliament and the byelaws, the structure in question was a new building within the meaning of the Act. This is a thing that is quite within the mischief of the Act; and the facts stated do, in my opinion, shew that it is a new building within the Act." BRETT, J., said: "In substance they say that, according to their interpretation of the Act, this was a new building within it; and they ask us if that is a correct interpretation." DENMAN, J., said: "If the magistrates meant to say that they found as a fact that the building in question was not a new building, I should incline to think that we ought not to interfere, though I might have differed from them in opinion. But that is evidently not what they meant to say. They meant to say that such a new building as they have described could not in point of law be a new building. I think it could."

Where a person was charged under the West Hartlepool Improvement Act, 1870, with unlawfully erecting a new building without notice to the local board, the building was made of wood, thirty feet long and thirteen feet wide, and was brought along the street on wheels and put at the corner of a new street; it had spouts and a down corner, had a supply of gas, and was used as a butcher's shop; it was held that the justices were right in treating this as a new building, and subject to the ordinary requirements of new buildings (*Richardson* v. *Brown* (1885), 49 J. P. 661). In considering whether a structure of this kind is a new building, the object of erecting or using it must be considered. Lord COLERIDGE, C.J., said (*ibid.* p. 662): "The question is for what purpose is the building there. I think it is not at all intended to be used merely as a caravan, but to all intents and purposes it is a house or building and is so used, and the wheels have been adopted evidently with the intention of evading the Act of Parliament."

Where the proprietor of a house erected before the construction of the local board, which house had a coach-house and stable attached to it, pulled down the coach-house and stable, and erected a building partly thereon and partly on an adjoining piece of land opening into an old back street, the access to the old building being by a covered way, it was held not to be a new building within the meaning of the Local Government Act, 1858, s. 34, but only an addition to an old building (*Shiel* v. *Sunderland* (*Mayor of*) (1861), 6 H. & N. 796; 30 L. J. M. C. 215; 25 J. P. 647).

The appellant was convicted of erecting certain structures of brick and mortar upon certain land without giving any notice or delivering any plans. It appeared that structure No. 1 was built with nine-inch walls, and contained two rooms, one of which had a fire-place and chimney. No. 2 consisted of upright walls, some two feet thick, in the form of a square, having an opening at either end, measuring about twelve yards on each side. The appellant had in contemplation the building of a number of cottages in the immediate neighbourhood of such structures; and the first-mentioned structure was for the storing of tools and the general convenience of the workmen proposed to be employed in the erection of such cottages; the other being for the purpose of a brick kiln. Both structures were intended to be pulled down by the appellant upon the completion of the cottages. The court held that the conviction was bad on the grounds that they were only temporary structures and not intended for residential purposes (*Fielding* v. *Rhyl Improvement Commissioners* (1878), 3 C. P. D. 272; 38 L. T. 223; 26 W. R. 881; 42 J. P. 311).

An advertising company, who were the occupiers of a plot of land within the borough of Sunderland, which plot was already enclosed by a wooden hoarding, raised their boarded walls or hoardings to a height of from thirteen to nineteen feet, and put inside upright timbers, and connected the hoarding on the sides of the ground by cross-pieces which acted as ties. The land within was used for preparing wood for hoardings to be used elsewhere. It was held, on appeal from conviction under a byelaw, that the structure was not a new building, that the byelaws pointed to a building with a roof and capable of affording protection or shelter, and that the word "building" in the byelaw meant some structure containing some feature contemplated by and dealt with in the byelaws (*Slaughter* v. *Sunderland* (*Mayor, etc. of*) (1891), 60 L. J. M. C. 91; 65 L. T. 250; 55 J. P. 519; 7 T. L. R. 296).

B. was summoned for building over an open space in his brewery without giving notice and without the approval of the local board, contrary to a byelaw. The building was a boiler substituted for a smaller one, and partly sunk in the ground with a casing of nine-inch brickwork, four feet high, leaving the top of the boiler uncovered. It was held that this was not a new building within the Public Health Act, 1875, s. 157, and the byelaw (*Gery* v. *Black Iron Brewery Co.* (1891), 55 J. P. 711). SMITH, J., in his judgment, pointed out that all the details in the byelaws were as to "the structure, width, and so forth of walls for stability," and that these matters did not apply to the present structure.

Where a house had been built with a conservatory on the first floor, in accordance with plans duly passed by the sanitary authority, and the respondent subsequently pulled down the conservatory and in its place built a bedroom, raising a portion of one of the external walls of the house for this purpose, the bedroom being of the same height and occupying no more space than the conservatory had done, and the justices dismissed a summons charging the respondent with having begun to erect a building to which the byelaws relating to new buildings applied without giving notice, on the ground that as the bedroom did not occupy any more space than the conservatory, the respondent had not made an addition to an existing building within the meaning of the byelaw; the Queen's Bench Division held that the justices were wrong, and the mere fact that the bedroom did not occupy any greater space than the conservatory for which it was substituted, did not necessarily prevent its being an addition to an existing building. As HUDDLESTON, B., pointed out, in the course of his judgment,

the justices might have found as a fact that the bedroom was not an addition (*Meadow* v. *Taylor* (1890), 24 Q. B. D. 717 ; 54 J. P. 757 ; 59 L. J. M. C. 99 ; 62 L. T. 658).

A lean-to conservatory, built of wood and glass, and measuring fifteen feet by nine feet, and not heated in any way, was held, by the Court of Appeal, not to be a "building" within the meaning of a byelaw made under s. 157 of the Public Health Act, 1875, which required every new building to be enclosed with walls constructed of good bricks, etc. (*Hibbert* v. *Acton Local Board* (1889), 5 T. L. R. 274).

Sewerage of new streets.—Although byelaws on this subject are authorised by s. 157 of the Public Health Act, 1875, the matter is not dealt with in the model series. "The reason for this is that the conditions which such byelaws must satisfy are, to so great an extent, dependent upon the varying circumstances of different localities" (Circular, Local Government Board, July 25th, 1877). The Local Government Board, moreover, appear to consider that the matter is not one in regard to which byelaws can usefully be made. "It may be doubted," they say in the same circular, "whether any powers which, under such byelaws, may be lawfully assumed by sanitary authorities, will, as regards extent and efficacy, compare with the powers which they derive from the express provisions of the Public Health Act." (See also s. 41 of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), and the provisions of the Private Street Works Act, 1892 (55 & 56 Vict. c. 57).) A provision requiring notice to be given to the surveyor of the district council before covering up a sewer in a new street, will be found in model clause 93.

SERIES IV.—NEW STREETS AND BUILDINGS.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for draft forms on which to submit the byelaws for the Board's preliminary approval before they are adopted by the local authority.*]

BYELAWS

MADE BY THE* WITH RESPECT TO NEW STREETS AND BUILDINGS, IN† .

Interpretation of Terms.

1. In the construction of the byelaws relating to new streets and buildings the following words and expressions shall have the meanings herein-after respectively assigned to them, unless such meanings be repugnant to or inconsistent with the context or subject matter in which such words or expressions occur; that is to say,—

"District" means the† :

"Council" means the* :

"Base" applied to a wall means the under side of the course immediately above the footings :

"Topmost storey" means the uppermost storey in a building, whether constructed wholly or partly in the roof or not, and whether used or constructed or adapted for human habitation or not :

"Party wall" means :—

(*a.*) A wall forming part of a building and being used or constructed to be used in any part of the height or length of such wall for separation of adjoining buildings belonging to different owners or occupied or constructed or adapted to be occupied by different persons ; or

* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or*, "Urban [*or* Rural] District Council of "; *as the case may be.*

† *Insert name of borough or urban or rural district or, if the byelaws are to apply to part only of a rural district,* "that portion of the Rural District of which comprises the contributory places of "; *as the case may be.*

(*b.*) A wall forming part of a building and standing, in any part of the length of such wall, to a greater extent than the projection of the footings on one side on grounds of different owners:

"External wall" means an outer wall of a building not being a party wall, even though adjoining to a wall of another building:

"Public building" means a building used or constructed or adapted to be used, either ordinarily or occasionally, as a church, chapel, or other place of public worship, or as a hospital, workhouse, college, school (not being merely a dwelling-house so used), theatre, public hall, public concert room, public ball-room, public lecture room, or public exhibition room, or as a public place of assembly for persons admitted thereto, by tickets or otherwise, or used or constructed or adapted to be used, either ordinarily or occasionally, for any other public purpose:

"Building of the warehouse class" means a warehouse, factory, manufactory, brewery or distillery:

"Domestic building" means a dwelling-house or an office building, or other out-building appurtenant to a dwelling-house, whether attached thereto or not, or a shop, or any other building not being a public building, or of the warehouse class:

"Dwelling-house" means a building used or constructed or adapted to be used wholly or principally for human habitation:

"Width," applied to a new street, means the whole extent of space intended to be used, or laid out so as to admit of being used as a public way, exclusive of any steps or projections therein, and measured at right angles to the course or direction or intended course or direction of such street.

Interpretation of terms.—Where terms used in the byelaws occur also in the Public Health Acts, and are there defined, "the proper mode of construction" will be "to apply the same interpretation to terms used in a byelaw which is applied to the same terms in the Act" (*Blashill* v. *Chambers* (1884), 14 Q. B. D. 479; 53 L. T. (N.S.) 38; 49 J. P. 388). Thus, the expression "street" requires no definition in the byelaws, as it is defined by s. 4 of the

Public Health Act, 1875.* Where an expression is used in the Act, without being defined therein, the byelaws cannot define what it means. "Building" is an expression of this kind.*

As regards all byelaws made after January 1st, 1890, it is provided by s. 31 of the Interpretation Act, 1889, that expressions used in the byelaws shall have the same meanings as in the Act by which they are authorised to be made. Statutory terms, therefore, should not be defined in the byelaws.

"Party wall."—The definition here given does not include "party fence walls," and such walls are outside the scope of the byelaws.

This definition is an expansion of the definition contained in s. 3 of the now repealed Metropolitan Building Act, 1855 (18 & 19 Vict. c. 122), which defined "party wall" as applying to every wall used or, built in order to be used, as a separation of any building from any other building, with a view to the same being occupied by different persons. Upon this enactment, FRY, J., in *Knight* v. *Pursell* (1879), 11 Ch. D. 412, at p. 414, observed as follows: "It appears to me, on reading the definition of a party wall contained in the 3rd section of the Act, that the intention is to define a party wall not by reference to the rights of ownership, which the adjoining proprietors may have in any particular wall in dispute, but by reference to the mode in which the wall is used. It is a question not of title but of user. The object of the Act is to limit the acts of private owners for the general benefit of the public, to prevent the spread of fire, and for similar purposes. And therefore, in order to determine whether this wall is a party wall, it is not necessary to consider what rights the plaintiff and defendant have, but what is the physical condition, position, and user of the wall." In *Knight* v. *Pursell* (1879), 11 Ch. D. 412; 48 L. J. Ch. 395; 40 L. T. (N.S.) 397; 27 W. R. 817; 43 J. P. 622, the facts were that the plaintiff was the owner of a boundary wall built on his own land, against which he had built some closets, and the defendant, his adjoining neighbour, had recently built a substantial structure. FRY, J., held that so far as these buildings extended against both sides of the wall it was a party wall within the meaning of the Act, and that the defendant was entitled, on giving proper notice under the Act, to take down such part as might be necessary for the purpose of necessary rebuilding. This decision was affirmed in the Court of Appeal (W. N. (1880), p. 104).

The definition of "party wall" in s. 5 (16) of the London Building Act, 1894, is modelled on the definition in these byelaws, but omits from clause (*a*) the words, "in any part of the height or length of such wall," and omits from clause (*b*) the words, "in any part of the length of such wall." But s. 58 of that Act enacts that "in either of the following cases, (*a*) when a wall is after the commencement of this Act built as a party wall in any part; or (*b*) where a wall built before or after the commencement of this Act becomes after the commencement of this Act a party wall in any part; the wall shall be deemed a party wall for such part of its length as is so used." And it was held in *Drury* v. *Army and Navy Auxiliary Co-operative Supply Co., Ltd.*, [1896] 2 Q. B. 271; 65 L. J. M. C. 169; 74 L. T. (N.S.) 621; 44 W. R. 560; 60 J. P. 421; 12 T. L. R. 404, that under s. 75 of that Act, a wall was only a party wall in so far as it divided one portion of a building from another, or one building from another, so that where the wall in question was carried up above the roof of the lower portion of the building, so as to form merely the outside wall of the upper portion, it ceased to that extent to be a party wall. This decision

* For decisions of the courts of law affecting the construction of the terms "street" and "building," see *ante*, pp. 78—85.

followed *Western* v. *Arnold* (1873), L. R. 8 Ch. App. 1084 ; 43 L. J. Ch. 123 22 W. R. 284, where it was held that a wall might be a party wall within the meaning of the Bristol Improvement Acts, 1840 and 1847, for part of its length or height, and an external wall for the remainder of its length or height.

The general meaning of the term "party wall" is discussed by FRY, J., in *Watson* v. *Gray* (1880), 14 Ch. D. 192, at p. 194, as follows: "The words appear to me to express a meaning rather popular than legal, and they may, I think, be used in four different senses. They may mean, first, a wall of which the two adjoining owners are tenants in common, as in *Wiltshire* v. *Sidford* (1827), 1 M. & R. 404, and *Cubitt* v. *Porter* (1828), 8 B. & C. 257. I think that the judgments in those cases show that that is the most common and primary meaning of the term. In the next place the term may be used to signify a wall divided longitudinally into two strips, one belonging to each of the neighbouring owners, as in *Matts* v. *Hawkins* (1813), 5 Taunt. 20. Then, thirdly, the term may mean a wall which belongs entirely to one of the adjoining owners, but is subject to an easement or right in the other to have it maintained as a dividing wall between the two tenements. The term is so used in some of the Building Acts. Lastly, the term may designate a wall divided longitudinally into two moieties, each moiety being subject to a cross easement in favour of the owner of the other moiety." This case of *Watson* v. *Gray* is also reported 49 L. J. Ch. 243 ; 42 L. T. (N.S.) 205 ; 44 J. P. 427.

The effect of the Metropolitan Building Act, 1855, upon the common law rights of co-owners of a party wall is discussed by JESSEL, M.R., in *Standard Bank of British South America* v. *Stokes* (1879), 9 Ch. D. 68 ; 47 L. J. Ch. 554 ; 38 L. T. (N.S.) 672; 26 W. R. 492 ; 43 J. P. 91. The application of the model byelaws to walls, which, though originally constructed as external walls, subsequently become party walls, is referred to at page 124, *post.*

"**External wall.**"—This definition has reference to the decision in *Green* v. *Eales* (1841), 2 Q. B. 225, where it was held that the external parts of premises are those which form the inclosure of them, and beyond which no part of them extends ; and it is immaterial whether they are exposed to the atmosphere, or rest upon and adjoin some other building which forms no part of the premises let.

With regard to this definition the cases of *Drury* v. *Army and Navy Auxiliary Co-operative Supply Co.,, Ltd.*, and *Weston* v. *Arnold*, cited in the note above, should be referred to.

On the question of ownership, it may be observed that it has been decided that a lease of the rooms on a floor is a lease of a separate dwelling, and includes the outer wall so far as it is solely appropriate to the rooms let (*Carlisle Café Co.* v. *Muse Brothers & Co.* (1897), 67 L. J. Ch. 53; 77 L. T. 515 ; 46 W. R. 107).

"**Public building.**"—As defined in the London Building Act, 1894, this term also includes "a building used or constructed or adapted to be used as an hotel, lodging-house, home, refuge, or shelter, where such building extends to more than 250,000 cubic feet, or as sleeping accommodation for more than one hundred persons."

Under the definition contained in s. 3 of the now repealed Metropolitan Building Act, 1855, it was held that an ambulance station, built by direction of the Metropolitan Asylum managers, and paid for out of poor rates, and consisting of several buildings having a separate access, and not structurally connected with any hospital, was not a public building (*Josolyne* v. *Meeson* (1885), 53 L. T. (N.S.) 319 ; 49 J. P. 805).

"**Building of the warehouse class.**"—The definition of this term in the London Building Act, 1894, extends it, for the purposes of that Act, to "any other building exceeding in cubical extent 150,000 cubic feet which is neither a public building nor a domestic building."

"**Dwelling-house**" is not defined in the Public Health Acts. It is, however, defined in the London Building Act, 1894, in precisely the same terms as are used here.

With reference to this definition, the observations of BOWEN, L.J., in *Wright* v. *Ingle* (1885), 16 Q. B. D. at p. 399, on the general meaning of the term may be usefully cited. He defined a dwelling-house as a building capable of being used as a dwelling for man, and continued, "There may be two obstacles which render a building incapable of being so used. First, it may be physically incapable of being reasonably so used on account of its construction; neither the Duke of York's column, nor a tombstone, nor an open shed, nor the Prince Consort's memorial, could, by any fit use of language, be said to be capable of being used as a dwelling for man. This is a physical incapacity. But, secondly, there may be a legal incapacity preventing a building from being used as a dwelling for man,—an incapacity existing either at common law or by statute. An instance of legal incapacity is afforded by a church of the Established Church of England. By the consecration of such a church the status of the building and of the soil is altered. The building is, by the ecclesiastical law, separated for ever from the common uses of mankind. It is dedicated thenceforward to sacred services, and the law precludes it from being ever capable of use for ordinary secular purposes." This case of *Wright* v. *Ingle*, is also reported 55 L. J. M. C. 17; 54 L. T. (N.S.) 511; 34 W. R. 221; 50 J. P. 436.

"**Width.**"—The definition allows areas covered with gratings or plates to be reckoned in the width of a street; but forecourts, and areas not so covered, cannot be included in the width of the street.

"**Building.**"—In order to give effect to the provision in s. 23 (2), of the Public Health Acts Amendment Act, 1890, authorising byelaws with respect to waterclosets, earthclosets, privies, ashpits, and cesspools, in connection with buildings, to be made so as to affect buildings erected before the times mentioned in s. 157 of the Public Health Act, 1875, the following definition of "building" is usually inserted at the end of clause 1 :—

Definition of "building" for purposes of Public Health Acts Amendment Act, 1890.

"Building," when used in any byelaw with respect to waterclosets, earthclosets, privies, ashpits, or cesspools in connection with buildings, means a building erected either before or after the times mentioned in section 157 of the Public Health Act, 1875.

Exempted buildings.

Exempted buildings.

2. The following buildings shall be exempt from the operation of the byelaws relating to new streets and buildings :—

(*a.*) Any building in Her Majesty's possession, or employed or intended to be employed for Her Majesty's use or service :

(*b.*) Any county or borough lunatic asylum, and any building or part of a building belonging to the council of any county, city, or borough, and used or intended to be used for the detention of any prisoners:

(*c.*) Any gaol, house of correction, bridewell, penitentiary, or other prison, and any building occupied or intended to be occupied by any prison officer for the use of such prison and contiguous thereto:

(*d.*) Any building (not being a dwelling-house) belonging to any person or body of persons authorised by virtue of any Act of Parliament to navigate on or use any river, canal, dock, harbour, or basin, or to demand any tolls or dues in respect of the navigation of such river or canal, or the use of such dock, harbour, or basin, and used or intended to be used exclusively under the provisions of such Act of Parliament for the purposes of such river, canal, dock, harbour, or basin:

(*e.*) Any building (not being a dwelling-house) erected or intended to be erected in connection with any mine, and used or intended to be used exclusively for the working of such mine:

(*f.*) Any building erected or to be erected according to plans previously approved by the Land Commissioners for England or the Board of Agriculture under the Improvement of Land Act, 1864, or other Act or Acts for the improvement of land:

(*g.*) Any building which may not be exempt by the operation of any of the preceding clauses of this byelaw, and which may be erected or may be intended to be erected in accordance with such plan and in such manner as may be approved or directed in pursuance of any statutory provision in that behalf by one of Her Majesty's Principal Secretaries of State:

(*h.*) Any building erected and used, or intended to be erected and used, exclusively for the purpose of a plant-house, orchard-house, summer-house, poultry-house, or aviary which shall be wholly detached, and at a distance of *ten feet* at the least from any other building, and which shall not be heated otherwise than by hot water, and in which the fireplaces (if any) shall be detached with no flues of any kind within such plant-house, orchard-house, summer-house, poultry-house, or aviary:

(*i.*) Any building which shall not exceed in height *thirty feet* as measured from the footings of the walls, and shall not exceed in extent *one hundred and twenty-five thousand cubic feet*, and shall not be a public building, and shall not be constructed or adapted to be used either wholly or partly for human habitation, or as a place of habitual employment for any person in any manufacture, trade, or business, and shall be distant at least *eight feet* from the nearest street, and at least *thirty feet* from the nearest building and from the boundary of any adjoining lands or premises :

(*j.*) Any building which shall exceed in height *thirty feet* as measured from the footings of the walls, and shall exceed in extent *one hundred and twenty-five thousand cubic feet*, and shall not be a public building, and shall not be constructed or adapted to be used either wholly or partly for human habitation, or as a place of habitual employment for any person in any manufacture, trade, or business, and shall be distant at least *thirty feet* from the nearest street, and at least *sixty feet* from the nearest building and from the boundary of any adjoining lands or premises :

(*k.*) Any building erected or intended to be erected for use solely as a temporary hospital for the reception and treatment of persons suffering from any dangerous infectious disorder.

Exempted buildings.—The buildings included in the foregoing byelaw are of two kinds, (*a*) buildings the construction of which is subject to the control of some Government Department, and (*b*) buildings which on general grounds it would be unreasonable or inexpedient to bring within the operation of the model code.

Crown property.—The general rule of law is that the Crown is not bound by such statutes as do not particularly and expressly mention it. But to this rule there is a most important exception, namely, that the Crown is impliedly bound by statutes passed for the general public welfare. Whether the Public Health Acts come within the exception has never been directly decided. It will be seen, however, that s. 327 of the Public Health Act, 1875, contains an express saving for lands or other property vested in the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of the Lord High Admiral for the time being, or in Her Majesty's Principal Secretary of State for the War Department for the time being. It may not, therefore, be unnecessary to expressly exempt the buildings mentioned in paragraph (*a*) of the byelaw from the operation of the succeeding clauses. It may further be mentioned that s. 15 of the Infectious Disease (Notification) Act, 1889, expressly provides that "nothing in this Act shall extend to any building, ship, van, shed, or similar structure

belonging to Her Majesty the Queen, or to any inmate thereof." So, also, s. 202 of the London Building Act, 1894, expressly provides that "there shall be exempted from so much of the provisions of this Act as relates to buildings or structures—every building structure or work vested in and in the occupation of Her Majesty, Her heirs and successors, either beneficially or as part of the hereditary revenues of the Crown, or in trust for the public service or for public services; also any building, structure or work vested in and in the occupation of any department of Her Majesty's Government, or of the metropolitan police, or of the trustees of the British Museum for public purposes, or for the public service; also any building, structure or work vested in or occupied for the service of the Duke of Cornwall for the time being." See also s. 6 of the Metropolitan Building Act, 1855 (18 & 19 Vict. c. 122); ss. 24 and 25 of the Metropolis Management and Building Acts Amendment Act, 1878 (41 & 42 Vict. c. 32); and s. 24 of the Metropolis Management and Building Acts Amendment Act, 1882 (45 Vict. c. 14). Under the first of these repealed enactments it was held that buildings erected by the Commissioners of Lieutenancy of the City of London, under statute 1 Geo. 4, c. 100, s. 39, and 17 & 18 Vict. c. 105, s. 2, for the custody of the arms and stores of the militia, were within the exemption as "employed for Her Majesty's use or service" (*R.* v. *Jay* (1857), 8 E. & B. 469; *S. C. Jay* v. *Hammon* or *Hammond*, 27 L. J. M. C. 25; 4 Jur. (N.S.) 407; 30 L. T. (O.S.) 133; 6 W. R. 41; 22 J. P. 527). Reference may also be made to the case of *Pearson* v. *Holborn Union*, [1893] 1 Q. B. 389; 62 L. J. M. C. 77; 68 L. T. (N.S.) 351; 57 J. P. 169; 5 R. 290, on the exemption of volunteer drill halls and store houses from local rates, and other cases such as *Leith Harbour Commissioners* v. *The Inspector of the Poor* (1866), L. R. 1 H. L. Sc. 17; *Lord Amherst* v. *Lord Sommers* (1788), 2 T. R. 372; *Smith* v. *Birmingham Guardians* (1857), 7 E. & B. 346; 26 L. J. M. C 105; 3 Jur. (N.S.) 769; *R.* v. *McCann* (1868), L. R. 3 Q. B. 141; 37 L. J. M. C. 123; 16 W. R. 985; 19 L. T. (N.S.) 115; 32 J. P. 579.

Lunatic asylums.—Under s. 254 of the Lunacy Act, 1890 (53 Vict. c. 5), as amended by s. 16 of the Lunacy Act, 1891 (54 & 55 Vict. c. 65), the approval of a Secretary of State is required to any plans or contracts agreed upon by a visiting committee, for the purchase of lands and buildings, or for the erection, enlargement, etc., of buildings, for the provision of asylum accommodation.

Lock-up houses.—As to the latter part of paragraph (*b*), which appears to refer to lock-up houses, see 5 & 6 Vict. c. 109, s. 22; 11 & 12 Vict. c. 101; 31 & 32 Vict. c. 22, s. 10), under which the plans of such buildings require the approval of the Secretary of State.

Prisons, etc.—By s. 2 of the Prison Act, 1884 (47 & 48 Vict. c. 51), the Secretary of State has power, with the approval of the Treasury, to build, enlarge or alter prisons, or to appropriate as a prison any suitable building vested in him, or under his control. The exemption in clause 2 (*c*), follows generally the definition of "prison" in s. 4 of the Prison Act, 1865 (28 & 29 Vict. c. 126).

Canal and dock buildings.—Subject to the provisions of s. 327 of the Public Health Act, 1875, the local authority may not interfere with any river, canal, dock, harbour or basin, so as to injuriously affect its use or navigation, in cases where any body of persons or person are or is, by virtue of any Act of Parliament, entitled to navigate on or use the same, or to receive tolls or dues in respect of the navigation or use thereof. But the exemption

prescribed by paragraph (*d*) of clause 2, is required, in order to avoid the difficulties which would probably arise if the buildings mentioned were subject to the provisions of the byelaws. It will be observed that dwelling-houses belonging to canal, dock, and other similar companies, are not included in the exemption, and the erection of such houses will, therefore, be subject to regulation by the local authority under the byelaws.

Railway buildings.—The model clause contains no exemption of railway buildings; but this, as regards buildings other than dwelling-houses, is unnecessary, in view of the last paragraph of s. 157 of the Public Health Act, 1875. The exemption conferred by that enactment, has been held to be limited to buildings which are part of stations or warehouses adjoining stations, and so directly connected with the traffic of railways. Cottages built by a railway company for their workpeople on their own land, are not included in the exemption (*Manchester, Sheffield, and Lincolnshire Railway* v. *Barnsley Union* (1892), 56 J. P. 679), and the byelaws will apply to all such cottages, and to any other buildings belonging to a railway company which are occupied as dwelling-houses by *employés* of the company.

Colliery, etc., buildings.—There is no statutory exemption of buildings connected with mines. The provision in paragraph (*e*), seems, however, to be desirable. It will not exempt dwelling-houses.

Buildings erected under control of Board of Agriculture.—Plans and specifications of these buildings, are required to be submitted to, and approved by the Land Commissioners (now the Board of Agriculture), before the buildings are commenced (see the Improvement of Land Act, 1864 (27 & 28 Vict. c. 114), ss. 30, 31; 52 & 53 Vict. c. 30, s. 2).

Buildings under control of Secretary of State.—As to these buildings see, for example, s. 12 of the County Police Act, 1840 (3 & 4 Vict. c. 88), under which the plans for county police stations must be approved by the Secretary of State. The observance of this requirement will, therefore, bring such buildings within paragraph (*g*), if they are not already exempted by any preceding clause of the byelaw.

Plant-houses, summer-houses, etc.—The provisions of paragraph (*h*) as to the heating arrangements of plant-houses, etc., should be noticed. But it would be manifestly unreasonable to make the construction of these buildings, where danger from the spread of fire is practically excluded, subject to provisions such as those with respect to the structure of walls, not to mention other matters regulated by the model series. There may be some other structures (*e.g.*, tool-houses) that might be brought within this clause. As to whether conservatories, tool-houses, etc., are "buildings" for the purposes of the byelaws, see *Hibbert* v. *Acton Local Board*, and *Fielding* v. *Rhyl Improvement Commissioners*, referred to in the notes on pp. 82, 84.

Buildings exempted by paragraphs (i.) and (j.).—These paragraphs have been framed with a view to the exemption of agricultural and other buildings, not within the scope of any of the previous exemptions, where the purposes for which the buildings are constructed, their height and cubical contents, and their distance from adjoining streets and property are such as to remove risk of danger either to other buildings or the public. There is, perhaps, one drawback to the practical utility of these two clauses. Farm buildings, not to mention others, are frequently placed much less than thirty (or sixty) feet from

each other, under conditions which would seem to justify their being exempted from the operation of the byelaws. This difficulty has been met by inserting after "nearest building," the words, "not being a building exempted by the operation of this byelaw." It may be questioned whether, in certain cases, the words, "at least feet from the nearest street, and," might not be omitted from each of these clauses where the byelaws are to apply to a rural area.

Temporary hospitals.—This exemption has frequently been found necessary in connection with outbreaks of infectious disease, where the existing hospital accommodation has proved insufficient to provide for the proper isolation of infected persons, and the sanitary authority have been compelled at short notice to erect temporary buildings to supply the deficiency. It is not desirable in any case to omit the clause. The district council would have no power to make a byelaw prohibiting the establishment of hospitals for infectious disease by other local authorities. (See *Withington* v. *Manchester*, [1893] 2 Ch. 19, 87.)

Workhouses not exempted buildings.—Workhouses and workhouse schools and infirmaries are not exempted by this clause from the operation of the byelaws as to new streets and buildings.

Public elementary schools.—The same remark applies to the buildings or public elementary schools.

Buildings of water company or gas company.—It would appear that, unless there is special provision in the special Act, the buildings of a water company or gas company are not exempt from the operation of the model byelaws. In *Grand Junction Waterworks Co.* v. *Hampton Urban District Council* (1898), 67 L. J. Q. B. 903; 79 L. T. 176, it was held that a water company was subject to the provisions of the Public Health (Buildings in Streets) Act, 1888. It appeared that the special Act incorporated s. 93 of the Waterworks Clauses Act, 1847, which provides that nothing in that Act or the special Act shall exempt the undertakers from "any Act for improving the sanitary condition of towns and populous districts," and it was held that the Public Health (Buildings in Streets) Act, 1888, being an Act for improving the sanitary condition of towns and populous districts," prevented the company from erecting a building in a street beyond the front main wall of the house or building on either side thereof.

Buildings exempted from the Operation of the Byelaws relating to the Structure of Walls.

Partial exemption of iron buildings

2a. The following buildings shall be exempt from the operation of the Byelaws numbered * .

(i.) Any building comprising not more than one storey:—

(*a.*) The external walls of which shall be constructed of, or wholly covered with, galvanized, corrugated, or other sheet iron:

* *Here insert the words* "eleven to thirty-five both inclusive," *or such other numbers as correspond with those byelaws of the model series.*

(*b.*) Which shall not exceed in height *twelve feet* as measured from the level of the ground adjoining the walls to half the vertical height of the roof, and shall not exceed in extent 2,000 cubic feet:

(*c.*) Which shall not be constructed or adapted to be used either wholly or partly for human habitation:

(*d.*) And shall be distant at least *ten feet* from the boundary of any adjoining lands or premises.

(ii.) Any building comprising not more than one storey:—

(*a.*) The external walls of which shall be constructed of, or wholly covered with, galvanized, corrugated, or other sheet iron:

(*b.*) Which shall exceed *twelve feet*, and shall not exceed *fifteen feet*, as measured from the level of the ground adjoining the walls to half the vertical height of the roof, and shall not exceed in extent 15,000 cubic feet:

(*c.*) Which shall not be constructed or adapted to be used either wholly or partly for human habitation:

(*d.*) And shall be distant at least *eight feet* from the nearest street, and at least *fifteen feet* from the nearest building, and from the boundary of any adjoining lands or premises.

(iii.) Any building comprising not more than one storey:—

(*a.*) The external walls of which shall be constructed of, or wholly covered with, galvanized, corrugated, or other sheet iron:

(*b.*) Which shall exceed *fifteen feet* and shall not exceed *thirty feet*, as measured from the level of the ground adjoining the walls to half the vertical height of the roof, and shall not exceed in extent 80,000 cubic feet:

(*c.*) Which shall not be constructed or adapted to be used either wholly or partly for human habitation:

(*d.*) And shall be distant at least *eight feet* from the nearest street, and *thirty feet* from the nearest building, and from the boundary of any adjoining lands or premises.

Exemption of iron buildings.—Copies of the above clause, which does not form part of the model series as issued in 1877,* may be obtained on

* There has been no subsequent issue, although the later reprints vary in some slight particulars from the original.

application to the Local Government Board. The object of the clause is to permit of the erection, subject to proper restrictions, of iron churches and other iron buildings not coming within any of the exemptions prescribed by clause 2. An iron church, for example, would not come within paragraph (*i*) or (*j*) of that clause, because it would be a "public building" as defined by clause 1 ; nor would an iron workshop or any other building intended for use "as a place of habitual employment for any person in any manufacture, trade, or business." But it will be noticed that clause 2A only applies to one storey iron buildings not intended for human habitation. Byelaws Nos. 11 to 35 (both inclusive), from the operation of which the clause exempts these buildings, relate to the structure of walls. No sufficient reason could be shown for exempting such buildings from the provisions intended to secure dry and wholesome foundations, the proper construction of chimneys, etc., for the byelaw would apply to buildings used by persons, although not used as dwellings. Precautions against the spread of fire also are a principal feature in the conditions under which iron buildings are allowed. In connection with the subject of iron buildings, reference may be made to the case of *Badley* v. *Cuckfield R. D. C.* (1895), 64 L. J. Q. B. 571 ; 43 W. R. 663 ; 72 L. T. 775 ; 59 J. P. 582 ; 15 R. 461. In that case, by a byelaw with respect to new buildings under s. 157 of the Public Health Act, 1875, it was provided that every person who shall erect a new building shall cause such building to be enclosed with walls constructed of good bricks, stone, or other hard and incombustible materials, properly bonded and solidly put together with good mortar (see model clause 11) ; and the Court (Lord RUSSELL, C.J., and CHARLES, J.) held that the byelaw applied to a building enclosed with walls constructed of materials other than bricks or stone ; and that a building intended for residential purposes, and consisting of a wooden framework to which was attached externally a layer of felt, and then corrugated sheets of galvanized iron, 1-32nd part of an inch thick, and internally a lining of match boarding which directly enclosed the room, was not enclosed with walls constructed of hard and incombustible materials.

With respect to the level of new streets.

Level of new streets.

3. Every person who shall lay out a new street shall lay out such street at such level as will afford the easiest practicable gradients throughout the entire length of such street for the purpose of securing easy and convenient means of communication with any other street or intended street with which such new street may be connected or may be intended to be connected, and as will allow of compliance with the provisions of any statute or byelaw in force within the district for the regulation of new streets and buildings.

Level of new streets.—The level of a street (*i.e.*, its elevation, throughout its course, above the datum line) is a matter intimately affecting the convenience of the public. In low-lying districts it may be of especial importance in relation to floods, and must in every case have a direct bearing upon the convenience of traffic. It would, however, be impossible in a byelaw which is to be of general application, to do more than indicate in the most general

terms the objects to be kept in view in fixing the levels, and no attempt to prescribe definite regulations on the subject is suggested by the model clause now under consideration. The gradients should, of course, be made as easy as possible; but in districts which are closely built over, sharp inclinations may be permissible, and even unavoidable, especially in streets of short length.

Places under local Act.—Where, by incorporation with any local Act, ss. 57—61 of the Towns Improvement Clauses Act, 1847 (10 & 11 Vict. c. 34), are in force within the district of any local authority proposing to adopt the model byelaws, clause 3 of the series must be omitted.

Person who "lays out" a new street.— The person who lays out a new street is the person who actually does so, and not the person who, for example only builds a house which may be in the street. For example, the owner of certain building land gave notice to the local authority of his intention to lay out certain new streets, including a certain back street, and deposited plans of such streets. Notice was also received by the local authority from a builder of his intention to dig and lay out the foundation of four cottages in the back street, and a plan of such street was deposited by him. In the plans deposited by the owner and builder the back street, in which it was intended to build the four cottages, was shown as being only twelve feet wide, whereas the minimum width of back streets prescribed by the byelaws was eighteen feet. The local authority accordingly gave the owner and the builder notice of their disapproval of such plans, and on his proceeding to build the cottages according to the disapproved plans, the local authority summoned the builder for unlawfully laying out a new street of insufficient width contrary to the byelaws. The justices dismissed the summons. It was held that the justices were right on the ground that the owner of the land, and not the builder, was the person who laid out the street (*Mayor of Sunderland* v. *Brown* (1880), 44 J. P. 831). POLLOCK, B., said: "The respondent, a builder, was called on by the landowner to build certain houses, and his work in building these houses was entirely independent of the laying out of the street." HAWKINS, J., said: "I think that a builder may lay out a new street if he is employed to do so. But in the present case the builder was not so employed; he had no hand in making the plans and laying out the street; the street was laid out by the building owner, who submitted the plans to the urban authority. All that the builder was employed to do was to build certain cottages upon the line of a new street already laid out."

With respect to the width and construction of new streets.

Width of streets intended for carriage roads.

4. Every person who shall lay out a new street which shall be intended for use as a carriage-road shall so lay out such street that the width thereof shall be *thirty-six feet* at the least.

Width of new streets.—The width of a new street derives importance from considerations of health as well as of the convenience of traffic. A street twenty-four feet in width may be sufficient, so far as can be foreseen, for the traffic of many years to come; but the unexpected opening up of adjacent land, or the

unforeseen construction of a new street through old property may convert this narrow street into a principal thoroughfare, the widening of which may thus suddenly become important, but which can only be effected at considerable expense. This, however, is not the only point to be borne in mind ; for narrow streets, other than those of a purely business character, tend to an increase of the density of population, owing to the greater number of dwellings which, under these conditions, are erected upon any given space. On these grounds local authorities should rather consider whether they can reasonably enforce a greater minimum width than that prescribed by the model clause 4 —say, *forty feet*—than admit the contention, sometimes advanced, that the adoption of thirty-six feet as the minimum width will involve an undue sacrifice of building land. A total width of thirty-six feet will allow of the formation of a roadway twenty-four feet wide ; but this is only wide enough to admit of the safe and convenient passage along the centre of the road of any vehicle of ordinary size where for the time being another such vehicle, whether stationary or in motion, occupies each side of the road. The byelaw is intended to apply only to what are usually termed "front streets." Words might be inserted making this clear. In the model code, front streets are termed streets intended to form the principal approach or means of access to buildings.

Scheme of the model byelaws as regards width of new streets.—The requirements of the model clauses with regard to the width of new streets may be thus summarised :

Front streets,—

Carriage roads, minimum total width, thirty-six feet.

Other front streets, minimum total width, twenty-four feet.

All front streets over one hundred feet in length to be carriage roads.

Back streets,—

Width unregulated, unless an additional clause be adopted. The terms of such a clause will be given in the proper place.

Places under local Acts.—Where s. 63 of the Towns Improvement Clauses Act, 1847, is in force by virtue of the provisions of any local Act, clauses 4—8 of the model series, so far as they relate to the width of new streets, must be omitted.

Certain streets to be constructed for use as carriage roads.

5. Every person who shall construct a new street which shall exceed *one hundred feet* in length shall construct such street for use as a carriage-road, and shall, as regards such street, comply with the requirements of every byelaw relating to a new street intended for use as a carriage-road.

Streets exceeding 100 feet in length.—This clause operates directly so as to secure the full width of thirty-six feet at least, together with convenience of access with carriages, if the street be more than one hundred feet in length. But it also favours the construction of cross streets at frequent intervals, and thus promotes the circulation of air. The clause is intended to apply, and by the addition of a few words might be made expressly to apply, only to "front streets." In the case of *Roberts* v. *Richards* (1890), 54 J. P. 693, this byelaw was held by the Court (Lord Coleridge, C.J., and Lord Esher, M.R.), to be valid and binding.

Width of streets not intended for carriage-ways.

6. Every person who shall lay out a new street which shall be intended for use otherwise than as a carriage-road, and shall not exceed in length *one hundred feet*, shall so lay out such street that the width thereof shall be *twenty-four feet* at the least:

Provided always, that this byelaw shall not apply in any case where a new street shall not be intended to form the principal approach or means of access to any building, but shall be intended for use solely as a separate means of access to any premises for the purpose of removing therefrom the contents of the receptacle of any privy, or of any ashpit, or of any cesspool without carrying such contents through any dwelling-house or public building or any building in which any person may be or may be intended to be employed in any manufacture, trade, or business.

Streets not intended for carriage traffic.—In *Roberts* v. *Richards* (1890), 54 J. P. 693, the court (Lord Coleridge, C.J., and Lord Esher, M.R.), held that this byelaw and byelaw 5, *supra*, were valid and binding. The definition of "street" in s. 4 of the Public Health Act, 1875, may be said to indicate that the legislature contemplated the regulation by means of byelaws of streets, not intended for carriage traffic. This is provided for by the present clause. But if it is desired to discourage the formation of such streets clause 5 and the first paragraph of clause 6 might be omitted, together with the words "which shall be intended for use as a carriage-road" in clause 4. Then all front streets would have to be constructed of a total width not less than thirty-six feet, and except in very few cases all new streets would probably be laid out as carriage-roads.

Width of back streets.

6a. Every person who shall lay out a new street which shall not be intended to form the principal approach or means of access to any building, but shall be intended for use solely as a separate means of access to any premises for the purpose of removing therefrom the contents of the receptacle of any privy, or of any ashpit, or of any cesspool, without carrying such contents through any dwelling-house or public building, or any building in which any person may be, or may be intended to be, employed in any manufacture, trade, or business, shall so lay out such street that the width thereof shall be *sixteen feet* at the least, provided that, if such new street shall not exceed in length *one hundred yards*, the width thereof shall be *thirteen feet* at the least.

Width of back streets.—Clause 6A does not form part of the model series as issued in 1877, but copies of the clause in a separate form can be obtained from the Local Government Board on application. The provisions of back streets ("secondary means of access" to premises) cannot be enforced under

the general law, where s. 23 (1) of the Public Health Acts Amendment Act, 1890, is not in force, or no byelaw has been made thereunder. See *Waite* v. *Garston Local Board* (1867), L. R. 3 Q. B. 5 ; 37 L. J. M. C. 19 ; 17 L. T. (N.S.) 201 ; 16 W. R. 78 ; 32 J. P. 228, where it was held that a byelaw that "no dwelling-house shall be erected without having at the rear or side thereof a good and sufficient back street or roadway, at least twelve feet wide, communicating with some adjoining public street or highway, for the purpose of affording access to the privy or ashpit of such house," was held invalid. If, however the district council wish to regulate the width of such back streets as may be provided, whether under compulsion or otherwise, the present clause will enable them to do so.

Construction of streets intended for carriage-roads.

7. Every person who shall construct a new street for use as a carriage-road shall comply with the following requirements :—

(*a.*) He shall construct the carriage-way of such street so that the width thereof shall be *twenty-four feet* at the least.

(*b.*) He shall construct the surface of the carriage-way of such street so as to curve or fall from the centre or crown of such carriage-way to the channels at the sides thereof ; the height of the crown of such carriage-way above the level of the side channels being calculated at the rate of not less than *three-eighths of an inch* and not more than *three-fourths of an inch* for every *foot* of the width of such carriage-way.

(*c.*) He shall construct on each side of such street a footway of a width not less than *one-sixth* of the entire width of such street.

(*d.*) He shall construct each footway in such street so as to slope or fall towards the kerb or outer edge at the rate of *one half of an inch* in every *foot* of width, if the footway be not paved, flagged, or asphalted; and at the rate of not less than *a quarter of an inch* and not more than *one half of an inch* in every *foot* of width, if the footway be paved, flagged, or asphalted.

(*e.*) He shall construct each footway in such street so that the height of the kerb or outer edge of such footway above the channel of the carriage-way (except in the case of crossings paved or otherwise formed for the use of foot passengers) shall be not less than *three inches* at the highest part of such channel and not more than *seven inches* at the lowest part of such channel.

Construction of new streets.—The model byelaws do not prescribe the materials of which new streets are to be constructed. Even if it were

practicable, having regard to the varying circumstances of different districts, to deal with the matter in a series of clauses intended for general application, it may be doubted whether the general powers which district councils possess under the Public Health Acts (s. 150 of the Public Health Act, 1875, s. 41 of the Public Health Acts Amendment Act, 1890, and the Private Street Works Act, 1892), require supplementing by means of byelaws. It may indeed be urged with much reason that detailed provisions on the subject, in the form of byelaws, might have the effect rather of hampering than of assisting the local authority if they were adopted. Accordingly, the model clauses 7 and 8, which relate to the construction of new streets, deal only with general points of construction, such as the transverse section of streets, the proportion of the aggregate width to be assigned to the carriage-way, the provision of proper footways, and the construction of proper entrances.

Width of carriage-way and footways.—It will be seen that, of the total width of thirty-six feet prescribed by clause 4 as a minimum for a street which is to be used for carriage traffic, clause 7 allots twenty-four feet or *four-sixths* to the carriage-way, and the remaining *two-sixths* to the footways. If forty feet is adopted as the minimum width for such streets, it is usual to require the carriage-way to be not less than *twenty-six feet*, and each footway not less than *seven feet* wide, and to alter sub-clauses (*a*) and (*c*) accordingly. Sub-clause (*a*) might, however, provide that the width of the carriage-way shall be "not less than *two-thirds of the entire width* of (such) street," and (*e*) would not then require alteration.

Transverse section of street.—The transverse section of a street constructed as prescribed by the model byelaws, is shown in the diagram (Plate I. Fig. 1). This represents a street as generally made; the surface of the carriage-way being curved from the centre or crown to the side channels. Another form of construction of the carriage-way is where the section of the road is formed by two straight lines connected in the middle by a flat circular arc. As regards the fall to be given to the roadway from the centre to the side channels, it should be borne in mind that a too great convexity of surface increases the difficulty of traction for horses, as well as the amount of wear and tear, alike of carriage wheels and of the roadway, from the constant tendency of vehicles to move sideways down the inclined plane when driven otherwise than in the centre of the road. The only purpose served by the rounding of the road being that of surface drainage, which can be equally well secured by giving the road a slight inclination longitudinally, it may be questioned whether the falls required by the model byelaw will not in many cases be found greater than is necessary.*

Level of kerb.—In *Rudland* v. *Mayor, etc. of Sunderland* (1885), 52 L. T. (N.S.) 616; 33 W. R. 164; 49 J. P. 359, the following byelaw was held void as being unreasonable:—"Every person who constructs a new street shall cause the kerb of each footpath in such street to be put in at such level as may be fixed or approved by the urban sanitary authority. No person shall commence the erection of a building in a new street unless and until the kerb of each footpath therein shall have been put in pursuant to the preceding requirement. Every person offending against this byelaw shall be liable for each offence to a penalty of forty shillings." GROVE, J. (at 52 L. T. p. 620) said:—"If it is

* See "The Construction of Streets and Roads" by Henry Law, M.I.C.E., and D. Kinnear Clark, M.I.C.E.—London: Crosby Lockwood and Son.

applied only to the particular piece of the street opposite to that on which a man might be going to build, there might be some ground for arguing that it was reasonable ; but it is not so, for, if it means anything, it means that each owner must wait until the whole kerb is put in. I think such a requirement is unreasonable." HAWKINS, J., said :—"I doubt whether the authority has power to make these provisions with respect to matters which have been specifically provided for by the 150th section (of the Public Health Act, 1875) since they amount to imposing on landowners an absolute duty to do certain things under pain of incurring a penalty, while that section merely provides that if they decline to do them there shall be no penalty, but the authority shall themselves do them and recover the expenses."

8. Every person who shall construct a new street shall provide at one end, at least, of such street an entrance of a width equal to the width of such street, and open from the ground upwards. Entrance to new street.

Entrance to new street.—Having regard to the comprehensive terms in which the expression "street" is defined in s. 4 of the Public Health Act, 1875, it would be unreasonable to require that every new street should have an entrance at each end. The model byelaw requires, however, that no new street, whether a carriage-road or otherwise, shall be constructed without an entrance at one end at least, and that this entrance shall be of the full width of the street, and open from the ground upwards. The entrance, therefore, must not be through an archway, or by an opening in which there is any contraction of the width of the street, or any impediment or projection between the ground level and the sky. So far, the sense of the byelaw appears clear ; and as tending to secure the free circulation of air about buildings, as well as the convenience of traffic, the requirements of the clause are excellent. It must, however, be admitted that the byelaw has been the subject of several conflicting decisions and much adverse criticism in the courts.

The earliest case dealing with the point is *Hendon Local Board* v. *Pounce* (1889), 42 Ch. D. 602. Indeed, this may be said to be the leading case on the subject, as the subsequent cases have generally followed the interpretation of the byelaw and its application as expounded by NORTH, J. In the *Hendon Case*, Mr. Pounce applied to the plaintiff authority for permission to lay out a new street, to be called Ravenhurst Avenue, extending south from the old lane which leads from Church Lane into his field, across his field, up to Chapel Walk, in accordance with a plan which he deposited with his application. This plan showed that the new street was to be forty feet (this was in accordance with the byelaw) in width, but that the only approach from the north end of it into Church Lane was by means of the old lane, which did not exceed twenty feet in width. The new street was to be terminated at its south end by Chapel Walk, thus forming a *cul-de-sac*. The plaintiffs rejected this application on the ground that the plan did not comply with their byelaws. Pounce then submitted an amended plan, which showed an extension of the proposed new street at its southern end, at right angles to its original direction, running from west to east, so that, if it were continued across the vacant strip of land belonging to a Mr. Mathews at the end of John Street, it would be connected with, and have an entrance into, that end of John Street. This proposed easterly extension of Ravenhurst Avenue was shown on the

amended plan as of the width of forty feet. It could not, however, be carried out so as to join John Street without the consent of Mathews. The amended application was referred to a committee of the plaintiff board, and the committee in due course reported to the board that the plans be passed on certain conditions. The plans were accordingly passed on those conditions. Pounce thereupon proceeded with the new street, and through him building operations began. These conditions, which it is unnecessary for our present purpose to state here, were subsequently not fulfilled. The proposed new street was not provided with an "entrance" of the prescribed width, according to the view of the meaning of the byelaws taken by the local authority. Thereupon, the local authority moved for an injunction to restrain the defendant from proceeding with his buildings until an entrance of forty feet to the street was provided. The defendant contended that the byelaw was void because it was unreasonable and *ultra vires*. NORTH, J., held that the byelaw was reasonable and *intra vires*. He further held that the entrance to the street must be of a width equal to the new street. He said: "The 4th byelaw applies to Ravenhurst Avenue, and makes it essential that it shall be at the least forty feet wide from one end to the other. Then the 6th byelaw provides that there is to be an 'entrance' forty feet wide. That does not mean that a part of the new street is to be forty feet wide, because the whole street is to be of that width, but it means that the mode of access to the new street so made is to be of a width equal to the width of the new street. The object of that is plain. It would be of no use to have a new street forty feet wide throughout, if at the end of that street the only access were by a narrow space fifteen feet or twenty feet wide. Therefore, it is required that the person who proposes to construct a new street shall, before he can be allowed to make it, provide an entrance to it of equal width with the street."

In *Bromley Local Board* v. *Lloyd* (1892), 56 J. P. 278, the question of the validity of similar byelaws came before KEKEWICH, J. The defendant in that case was the owner of a piece of freehold land, known as the "White Hart Fields." The land was separated on the west from the Market Square of Bromley by another piece of land of the defendant's, which was covered with buildings. These pieces of land were bounded on the north by White Hart Lane. This lane, which was the only means of access to the White Hart Fields, was about two hundred feet in length, and of a width varying from ten feet to twenty feet. It was terminated at the east end by a gate at the entrance to some fields, and at the west end was situated the Market Square of Bromley. The lane was a public highway. The byelaws applicable to the case followed the form of the model byelaws, *supra*, prescribing the width of any new street to be forty feet. The defendant, in October, 1891, submitted to the plaintiff board for approval a plan for a new street which he proposed to construct on White Hart Fields. This was rejected on the ground of non-compliance with the byelaw as to width of entrance. In January, 1892, the defendant submitted an amended plan to the plaintiffs, but this was also disapproved on the same ground. In the plan submitted in October, 1891, the proposed new street was shown to be of the width of forty feet throughout its entire length, and to run out of White Hart Lane from north to south. The amended plan submitted in January, 1892, showed a strip of land forming part of the White Hart Lane, so as to make White Hart Lane, which bounded White Hart Fields, to be of the width of forty feet. In other respects the amended plan was similar to the plan submitted in October, 1891. In February, 1892, the defendant gave notice to the plaintiffs of his intention to construct the new street according to the amended plan, notwithstanding the non-approval by the plaintiffs. The

plaintiffs issued a writ in the Chancery Division for an injunction restraining the defendant from proceeding to construct the new street, and they claimed an *interim* injunction until the trial of the action. The motion for an *interim* injunction came before KEKEWICH, J., and he, considering himself bound by the decision of NORTH, J., in the *Hendon Case, supra*, granted an *interim* injunction. In his judgment, however, he took occasion to criticise the decision of NORTH, J. "The entrance," KEKEWICH, J. said, "to the new street must surely be something different from the new street itself. Then he (NORTH, J.) goes on to say: 'But it means that the mode of access to the new street so made is to be of a width equal to the width of the new street'; and he explains what he understands to be the plain object of that provision. I do not hesitate to say that I think the learned judge has fallen into error by changing the expression from entrance to mode of access. He had to construe entrance, and he has really construed mode of access, which he has substituted for it. The mode of access is White Hart Lane. It is the mode of access from Market Square to the proposed new street, and it is not there forty feet wide. It is not difficult to carry in one's mind's eye many of the streets in provincial towns, and to think of a mode of access at a long distance from a street haply crossing public squares and wide streets, and yet possibly it is the only means by which the new street can be approached, and the only mode of access to it. As I understand the decision of NORTH, J., you must find the mode of access (however far distant) of a width equal to the width of the new street. I entertain great doubt about the accuracy of the reasoning, but there it is." An *interim* injunction was, therefore, granted.

But the case was not yet over. It was subsequently transferred to the Queen's Bench Division for trial, and the trial came on before WILLS, J. The case is somewhat obscurely reported in 9 T. L. R. 306, but from that report it seems that WILLS, J., refused to follow the decision of NORTH, J., in the *Hendon Case, supra*. He is reported to have said that "the language of the report in the case of *Hendon Local Board* v. *Pounce* did not sufficiently indicate what it was NORTH, J., did decide." He held that "the entrance meant a practicable way into the street." He, therefore, dissolved the *interim* injunction granted by KEKEWICH, J., and dismissed the action with costs.

From this conflict of opinion, the question, after the final decision in the *Bromley Case*, must be regarded as again open, until the case of *Barton Regis Rural District Council* v. *Stevens and Others* (1897), 61 J. P. 598. It appeared in that case that the defendants or their testator, for they were executors, were desirous of developing certain land by building thereon, and accordingly deposited a plan for a new street with the plaintiff authority. The proposed new street, Roseberry Avenue, was intended for use as a carriage-road, and was of the width required by the byelaws, which, again, were according to the form of the model byelaws. The new street abutted or joined an already existing street leading to Durdhamdown. This street, which is a thoroughfare situate within the district of the city of Bristol, and outside the district of the Barton Regis Rural District Council, forms the entrance to the proposed new street. It is thirty feet wide throughout its entire length, that being the width prescribed by the byelaws in force within the city of Bristol, except at the point where it would join a new street, where it is only twenty-nine feet wide. The plan was disapproved on the ground that the entrance to the proposed new street was not of the required width. An amended plan was submitted, and this was also disapproved. The case then came before the High Court, when POLLOCK, B., and KENNEDY, J., followed the decision of NORTH, J., although

with some hesitation. KENNEDY, J., did not feel sufficient doubt to differ from NORTH, J. With regard to any hardship that might fall upon individuals who may be desirous of laying out new streets where it is almost impossible to obtain an entrance on another man's land of the prescribed width, POLLOCK, B., observed that "the true answer . . . is that if a building owner in carrying out the proposed development of his estate cannot comply with the byelaws made under the statute he must alter his scheme of development so as to be in accordance with them."

Upon the whole, it would seem desirable that some such addition as the following should be made to the clause :—

Proviso for new streets opening into existing streets.

Provided that where such street shall communicate with some other street, it shall suffice if he shall so construct such new street that at the point of communication it shall be open from the ground upwards to the full width thereof.

A byelaw requiring that every new street shall open directly into another street, or that in connection with the laying out of a new street not opening directly into another street, an "approach" to the new street shall be formed, of a certain minimum width, would appear to be *ultra vires*, although the arrangement contemplated may on abstract grounds be desirable.

Byelaw as to "secondary means of access."—Where the district council, by adoption of Part III., or otherwise,* have power under s. 23 (1), of the Public Health Acts Amendment Act, 1890, to make a byelaw requiring the provision in connection with the laying out of new streets of secondary means of access where necessary for the purpose of the removal of house refuse and other matters, the byelaw may be inserted under a separate heading after clause 8 of the Local Government Board's model series. In this and other respects byelaws made under s. 23 of the Act of 1890 may be combined with clauses under s. 157 of the Public Health Act, 1875, in one series. In the following pages the place of other clauses under the Act of 1890 in a combined series will be indicated as occasion requires. For appropriate forms of byelaws under this Act, see "Model Byelaws," Vol. II. (London : Shaw and Sons.)

With respect to the structure of walls, foundations, roofs, and chimneys of new buildings for securing stability and the prevention of fires, and for purposes of health.

Building sites impregnated with fæcal matter, etc.

9. A person who shall erect a new building shall not construct any foundation of such building upon any site which shall have been filled up with any material impregnated with fæcal matter or impregnated with any animal or vegetable matter, or upon which any such matter may have been

* See ss. 3, 5.

deposited, unless and until such matter shall have been properly removed, by excavation or otherwise, from such site.

New building.—As to what is a "new building," see *ante*, p. 82.

Foundations of new buildings.—Clauses 9 and 10, and the "modified clauses" 10A and 10B, which will be inserted in their proper place, relate to the foundations of new buildings. The term "foundation" is used in building construction to describe both the surface or bed of earth or other material on which a building rests, and the manner in which the substratum of the building is constructed so as to form an adequate support for the superstructure. It is in the former sense chiefly in which the term is employed in the model byelaws. The clauses dealing with the subject are not concerned with the *selection* of sites for buildings, but with the steps to be taken to *fit* the sites for building. Ordinary cases will fall within the scope of clause 10. Clauses 9 and 10A and 10B relate to unhealthy sites of different kinds, where special precautions must be taken to prevent injury to health of the occupants of the intended buildings. Where a site has been filled up with, or used as a "tip" for, material impregnated with animal or vegetable matter, no building can be safely erected upon it until it has been excavated to a sufficient depth to get rid of all contaminated soil, or a sufficient time has elapsed to render the deposit innocuous. What length of time will be necessary will obviously depend on the character of the deposit, etc. Any kind of fæcal matter is especially dangerous to health in this respect, and sites filled up with material including such matter should be thoroughly excavated even after the lapse of a considerable time.

Places where 53 & 54 Vict. c. 59, s. 25, is in force.—It is some indication of the value of clause 9 that its provisions should have been incorporated in the Public Health Acts Amendment Act, 1890, with the same penalties as may be imposed by byelaws under s. 157 of the Public Health Act, 1875. The effect of this is that where Part III. of the Act of 1890 has been adopted by an urban or rural district council, or where, by an order of the Local Government Board, s. 25 has been put in force in a rural district,† clause 9 must be omitted from the series.

Person who erects a new building.—In the case of *R.* v. *Brown* (1881), 45 J. P. 220 *n*, the question arose as to who was the person erecting under the following circumstances:—White had entered into an agreement with Brown to build some eighty houses in the metropolis, according to plans which Brown deposited with the local board. Brown built about fifty of the houses, and then left the rest to be built by Brand, and did not interfere further. Brand violated the byelaws, and Brown, as the depositor of the plans, was convicted and fined by the justices as the person erecting the building contrary to the byelaws. It was held by the Queen's Bench Division that Brown could not be deemed the person erecting, after having ceased to superintend the building, and that the conviction was bad. (See also *Sunderland* (*Mayor, etc. of*) v. *Brown* (1880), 44 J. P. 831, *ante*, p. 98.) In *Bennett* v. *Skegness Local Board* (1890), 54 J. P. 469, it appeared that B. being the owner of waste ground in an urban district, put a wooden fence along the boundary without floor or roof. He let the place to R., who sold toys during the seaside season, but forbade him to affix anything to the structure. R., without B.'s

† See ss. 3, 5, of the Act.

knowledge, stretched canvas across the top of the fence while selling toys, and left the premises in September, 1889. Three days later B. was charged with erecting a wood building contrary to the byelaws, and convicted. It was held that the conviction was wrong, on the ground that the erection was against his consent and without his knowledge.

Sites to be asphalted or concreted.

10. Every person who shall erect a new domestic building shall cause the whole ground surface or site of such building to be properly asphalted or covered with a layer of good cement concrete, rammed solid, at least *six inches* thick.

Asphalting or concreting of sites.—"All soils contain a certain amount of air, the actual percentage depending on the looseness or otherwise with which the constituent particles are packed together. Many rocks, particularly the softer varieties, also contain air, only the very densest forms being practically free from it. . . . The subterranean atmosphere which exists in the soil is in continual movement. . . . Beneath buildings such movements of the ground air may be very active, particularly in the case of houses that are artificially warmed, the air which then passes up from below being often drawn from considerable depths, so that, in the case of houses which have been built upon made soils especially, much unhealthiness may result from the aspiration of foul air from the impure soil beneath, unless the precaution be taken of covering the site with an impermeable layer of asphalte or concrete." Dampness of site also has important relations to the occurrence of phthisis, rheumatism, respiratory diseases, diphtheria, and other ailments.‡ The importance of this clause to health, therefore, is very great; and there is probably no case in which the covering of the site with asphalte or concrete could be regarded as wholly unnecessary. There are, however, no doubt certain localities where the requirements of the byelaw may be waived with a tolerable degree of safety. In such cases the Local Government Board have allowed the addition to the clause, at the end, of the words "wherever the dampness of the site or the nature of the soil renders such a precaution necessary." The concrete or asphalte layer, if provided, may be utilised for the formation of cellar floors. Assuming, however, that the site is not concreted, it becomes necessary to increase the ventilating space beneath the lowest timbers from, say, three inches to *nine inches*. (See model clauses 56 and 56*, and notes thereon, *post*.)

Excavated sites.

10a. In every case where the intended site of a new building may have been or may have formed part of a clay-pit or where, by reason of excavation and the removal of earth, gravel, stones, or other materials from such site, the whole or any part of the surface thereof may be at such a depth below the level of the surface of the ground immediately surrounding and adjoining such site as may render the elevation of the whole or part of the existing surface of such site necessary for the prevention

‡ See "The Influence of Soil on Health," by Dr. S. Monckton Copeman, in Drs. Stevenson and Murphy's "Treatise on Hygiene and Public Health." (London: J. and A. Churchill.)

of damp in any part of any building to be erected thereon:—A person shall not construct any foundation of a new building upon such site or upon such part thereof as, for the purpose aforesaid, may require elevation, unless and until there shall have been properly deposited thereon a layer or layers of sound and suitable material sufficient to elevate such site or such part thereof to an adequate height, and to form a stable and healthy substratum for such foundation.

"**Excavated sites.**"—The above clause has been suggested by the Local Government Board for adoption in cases where, for the purpose of brick-making, large quantities of clay have been removed from land on which it is proposed to erect buildings, or where in other ways "by reason of excavation and the removal of earth, gravel, stones, or other materials" from the site of an intended building, the artificial raising of the site becomes necessary, "for securing stability and for purposes of health." Copies of the clause may be obtained on application to the Local Government Board.

Low-lying sites.

10b. In every case where the intended site of a new building may be within an area bounded by* a person shall not construct any foundation of such building, unless and until there shall have been properly deposited upon the site a layer or layers of sound and suitable material sufficient to elevate such site to a height at least *feet* above the ordnance datum, and to form a stable and healthy substratum for such foundation; or unless he shall so erect the building upon cement concrete, masonry, or brickwork, that the floor of the lowest storey shall be at least *feet* above the ordnance datum.

Low-lying sites.—This clause is drawn with the same general object as No. 10A, viz., the utilisation of sites which in themselves are too low to be healthy. That clause deals with sites on which excavation has taken place; 10B with sites naturally low-lying, and probably marshy, as, for example, on the banks of rivers. Copies of the clause may be obtained on application to the Local Government Board. The description of the area to which the byelaw is to apply should be made with reference to a continuous boundary, the course of which should be such as can be readily identified. It will facilitate the consideration of the clause if the Local Government Board are furnished with a map on which the proposed boundary is accurately and distinctly marked. The other blanks in the clause should be filled before submitting it to the Local Government Board.

Structure of enclosing walls.

11. Every person who shall erect a new building shall † cause such building to be enclosed with walls constructed of good

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* *Here insert boundaries of the area to which the following requirement is to apply.*

† *Where either of the under-mentioned provisoes is adopted, insert here* "except as herein-after provided."

bricks, stone, or other hard and incombustible materials, properly bonded and solidly put together:—

(*a*.) With good mortar compounded of good lime and clean sharp sand, or other suitable material; or

(*b*.) With good cement; or

(*c*.) With good cement mixed with clean sharp sand.

Structure of walls.—Section 157 of the Public Health Act, 1875, authorises byelaws to be made with respect to the structure of walls, (*a*) for securing stability, (*b*) for the prevention of fires, and (*c*) for purposes of health. Clause 11, the first of the model clauses relating to walls, is a byelaw for securing the first two of these objects, so far as regards the enclosing (*i.e.*, the external and party) walls of a building. Besides the use of proper materials, the clause aims at proper methods of "bonding." The structure of cross-walls is regulated by clause 12.

Bonding of walls.—The bonding of a wall consists in the interlacing of the bricks or other component portions of the mass, so as to secure that each brick or stone is supported by as many others as possible. It may be otherwise described as such a method of disposing the bricks or stones in the construction of the wall, that it shall be as strong as possible in the direction of its length, while incapable of separating in thicknesses. The two methods of bonding commonly used in this country, viz., "Flemish bond" and "English bond," are shown in the diagrams (Plate I. Figs. 2 and 3).

Composition of mortar, etc.—It is obviously necessary, as well in the interests of health as for securing stability, that the cementing material of a wall should be of good quality. Want of proper attention to this matter, might, in some cases, result in the use in the composition of mortar, of sand impregnated with salt, causing the walls to be damp for an indefinite period. But still more objectionable substances than this may, in country districts, find their way into the composition, if the builder is not carefully supervised. The model byelaw does not specify the proportions in which the prescribed materials are to be combined: it merely requires that the materials shall in themselves be good and suitable, and the district council have a practically free hand as to other details. If, however, the council thought well to specify these proportions, the addition of the necessary words would probably be allowed by the Local Government Board. *One part* by measure of lime to *three parts* of sand, etc. may be suggested for paragraph (*a*), and *one part* by measure of cement to *four parts* of sand for paragraph (*c*).

Grouting.—An addition sometimes proposed to be made to this byelaw requires the wall to be "grouted" in every course. "Grout" is liquid mortar poured and spread over the work, so as to run in and fill up the interstices between the bricks. There are serious practical objections to this requirement, which, moreover, would be very difficult to enforce. At the best the "grout" only effects what should be, and with very little additional trouble may be, done with "mortar." The alteration is therefore one which cannot be recommended.

Application of the byelaw.—See decisions on what is a "new building," *ante*, p. 82. In *Badley* v. *Cuckfield Rural District Council* (1895), 64 L. J.

Q. B. 571 ; 72 L. T. 775 ; 43 W. R. 663 ; 59 J. P. 582, it was held that the bye-law applied to a building enclosed with walls constructed of materials other than bricks or stone ; and that a building intended for residential purposes, and consisting of a wooden framework to which was attached externally a layer of felt, and then corrugated sheets of galvanized iron, 1-32nd part of an inch thick, and internally a lining of match boarding which directly enclosed the room, was not enclosed with walls constructed of hard and incombustible materials.

Hollow walls.—If the district council desire to permit the erection of buildings with hollow (external) walls, the following proviso should be added to clause 11 :

Proviso for hollow walls.

Provided always that such person may construct any external wall of such building as a hollow wall if such wall be constructed in accordance with the following rules :—

(i.) The inner and outer parts of the wall shall be separated by a cavity which shall throughout be of a width not exceeding *three inches.*

(ii.) The inner and outer parts of the wall shall be securely tied together with suitable bonding ties of adequate strength formed of galvanized iron, or iron tarred and sanded, or of glazed stoneware. Such ties shall be placed at distances apart not exceeding *three feet* horizontally and *eighteen inches* vertically.

(iii.) The thickness of each part of the wall shall throughout be not less than *four and a half inches.*

(iv.) The aggregate thickness of the two parts, excluding the width of the cavity, shall throughout be not less than the minimum thickness prescribed by the byelaw in that behalf for an external wall of the same height and length, and belonging to the same class of building as that to which the hollow wall belongs.

(v.) All woodwork which may be intended to form the head of a door-frame or window-frame, a lintel, or other similar structure, and may be inserted in the wall so as to project into or extend across the intervening cavity, shall be covered throughout on the upper side thereof with a layer of sheet lead or other suitable material impervious to moisture in such a manner as effectually to protect such woodwork from any moisture that may enter the cavity.

This mode of construction is illustrated by the diagram (Plate II. Fig. 4). It is questionable whether, without some such provision as this, hollow walls

could be constructed under the model byelaws unless one of the two portions of the wall enclosing the cavity were built solid of the full thickness prescribed by clause 19 or 20, or 22. In any case, the width of the cavity is not to be reckoned as part of the thickness of the wall. Hollow walls, however, "if properly constructed, . . . greatly promote the comfort and dryness" of houses, especially in exposed situations. "Other means of securing the same condition of dryness have been contrived with more or less success, such as a vertical damp proof course of slates, or of asphalte or other bituminous substance. Compo, or tiles, or slates are sometimes used on the outer face of the wall for the same purpose."* The regulations in this byelaw as to width of cavity, and the strength, material, and distribution of bonding ties are of great importance as affecting the stability of these walls.

The *bonding ties* should be so placed that the ties in alternate courses shall be in the same vertical line, thus,—

The requirement as to protecting woodwork from damp also deserves mention ; but it may be pointed out that the proviso is silent as to any means of *draining and ventilating* the cavity in the wall. The district council may consider whether some provision for this could not with advantage be made, *e.g.*, by adding at the end of paragraph (i.) the words "and shall be properly drained and ventilated." Copies of this proviso as above printed can be obtained on application to the Local Government Board.

Half-timber walls.—Not infrequently local authorities wish to allow the construction of "half-timber" or "timber-framed" external walls, and the following proviso, of which copies are supplied by the Local Government Board to local authorities on application, has been prepared to meet such cases.

Proviso for half-timber walls.

Provided that,—

(*a*) where a new building intended for use as a dwelling-house shall be distant not less than *fifteen feet* from any adjoining building not being in the same curtilage, the person erecting such new building may construct its external walls of timber-framing and in accordance with the following regulations, that is to say—

(i.) the timber-framing shall be properly put together, and the spaces between the timbers shall be filled in completely with brickwork :

(ii.) a thickness of at least *four and a half inches* of brickwork shall be placed at the back of every portion of timber, and shall be properly bonded to the brickwork filling the spaces between the timbers : and

* See "The Dwelling," by Mr. P. Gordon Smith, F.R.I.B.A., and Mr. Keith D. Young, F.R.I.B.A., in Drs. Stevenson and Murphy's "Treatise on Hygiene and Public Health."

(*b*) where a new building forms or is intended to form part of a block of new buildings which shall be intended for use as dwelling-houses, and shall not exceed three in number, and each of which shall be distant not less than *fifteen feet* from any adjoining building not being in the same curtilage and not forming part of the same block, the person erecting such new building may construct its external walls of timber-framing, subject to compliance with the following conditions, that is to say—

(i.) the several buildings shall be separated by party walls, each of which shall be constructed in accordance with the requirements of the byelaws in that behalf, and shall project at least *one inch* in front of any timber-framing in any adjoining external wall:

(ii.) the timber-framing shall be properly put together, and the spaces between the timbers shall be filled in completely with brickwork:

(iii.) a thickness of at least *four and a half inches* of brickwork shall be placed at the back of every portion of timber, and shall be properly bonded to the brickwork filling the spaces between the timbers.

For illustration of the requirements of this clause, see diagram (Plate II., Fig. 5, Appendix). Obviously the objection to these walls is, on the score of stability, that the structure is a combination of materials of totally different capabilities as regards tension, compression, etc., and, with respect to the spread of fire, that the framing is of a highly combustible material. These objections are sought to be met by requiring that the timber-framing shall be "properly put together,"—a general phrase which has the advantage of leaving the local authority a practically free hand in the matter,—and that not only shall the spaces between the timbers be completely filled in with brickwork, but that throughout there shall be not less than four and a half inches of brickwork behind the timber on the inner face of the wall, and an adequate "through bond" between this backing and the brickwork filling in the spaces between the timbers. The danger of the spread of fire from one house to another is further reduced by prohibiting the use of timber-framing for the walls of any house which comes within fifteen feet of any building not in the same curtilage or in the same block; by not permitting the erection of more than three houses in one block where any of them is constructed in half-timber work, and if such blocks are built, by requiring the party walls to be brought out at least one inch in front of any timber-framing. The adoption of this proviso will render necessary some slight modifications in clauses 22 and 24 of the model series (see the notes on these two clauses).

Tile-hung walls.—Another special mode of construction for which, since 1877, the Local Government Board have framed a proviso, is that of "tile-hung" walls. The proviso is as follows :—

Proviso for tile-hung walls.

Provided that where a new building which comprises two or more storeys forms, or is intended to form, part of a block of new buildings which shall be intended for use as dwelling-houses, and shall not exceed two in number, and each of which shall be distant not less than *fifteen feet* from any other building, not being in the same curtilage and not forming part of the same block, the person erecting such new building may construct the external walls of the topmost two storeys, whether wholly or partly in the roof or not, of timber-framing covered with tiles, subject to compliance with the following conditions, that is to say :—

(i.) The timber-framing shall be properly put together with sufficient braces, ties, plates, and sills, and the spaces between the timbers shall be filled in completely with a thickness of at least *four and a half inches* of brickwork.

(ii.) So much of any external wall as is below that portion which may be of timber-framing covered with tiles shall be constructed of the same thickness, and in other respects subject to the same conditions as would be applicable if the wall had been constructed throughout its whole height of good bricks, stone, or other hard and incombustible materials.

(iii.) The party wall separating the two buildings shall be carried out at least to the external face of any timber-framing in any adjoining external return wall.

The effect is that in the case of detached or semi-detached dwelling-houses of two or more storeys, which are situated with regard to fires at a safe distance from other buildings, the external walls of the topmost storey,* or two topmost storeys, may be constructed of timber-framing filled in with brickwork and covered with "weather-tiling," if the part of each wall below this tiling is constructed of brickwork or stonework, and is of the same thickness, etc., as though the wall were throughout of brickwork or stonework only.

Structure of cross walls.

12. Every person who shall erect a new building shall construct every cross wall, which, in pursuance of the byelaw in that behalf, may, as a return wall, be deemed a means of

* See definition in clause 1.

determining the length of any external wall or party wall of such building, of good bricks, stone, or other hard and incombustible materials properly bonded and solidly put together:—

(*a.*) With good mortar compounded of good lime and clean sharp sand, or other suitable material; or

(*b.*) With good cement; or

(*c.*) With good cement mixed with clean sharp sand.

Structure of cross walls.—The requirements of this clause are identical, as regards the cross walls to which it refers, with the requirements as to external and party walls prescribed by clause 11. It does not apply to all cross walls, but only to such as, under clause 18, are to be considered as determining the length of external and party walls (see notes on clauses 18 and 21). Hence it does not prevent the construction of "partitions" of timber-framing, etc., in the interior of the building, and it does not affect brick cross or division walls not carried up to the top of the "topmost storey."† As to the composition of mortar, see separate note on p. 110.

Plastering of walls.—There would seem to be no authority in s. 157 of the Public Health Act, 1875, for a byelaw regulating the plastering of walls. Such a byelaw would seem not to be a byelaw "with respect to the structure of walls," within the meaning of s. 157 (2) of the Public Health Act, 1875. The plastering of a wall forms no part of its "structure."

Overhanging walls and projections.

13. A person who shall erect a new building shall not construct any wall of such building so that any part of such wall, not being a projection intended solely for the purposes of architectural ornament, or a properly constructed corbel, shall overhang any part beneath it.

Wall not to overhang.—This clause has been allowed in a slightly modified form, which substitutes for the part here printed in brackets the words "not being a part properly corbelled out, or a projection intended solely for the purposes of architectural ornament."

Byelaws as to cornices, etc.—It would seem that there is nothing in the Public Health Acts to authorise the making of a byelaw regulating the construction of cornices, etc., with a view to securing stability.

Bonding of return walls with other walls.

14. Every person who shall erect a new building shall cause every wall of such building which may be built at an angle with another wall to be properly bonded therewith.

Bonding of return walls with other walls.—The object of this provision is to secure for any wall with which a return wall may be connected, the

† See definition in clause 1.

utmost possible support from the return wall. This is especially important in connection with the provision in clause 18 to the effect that walls are to be deemed to be divided into distinct lengths by return walls, and the consequent reduction of thickness allowed by the model series where a wall is so deemed to be divided.

Footings of walls.

15. Every person who shall erect a new building shall construct every wall of such building so as to rest upon proper footings.

He shall cause the projection at the widest part of the footings of every wall, on each side of such wall, to be at least equal to *one half* of the thickness of such wall at its base, unless an adjoining wall interferes, in which case the projection may be omitted where that wall adjoins.

He shall also cause the diminution of the footings to be in regular offsets, or in one offset at the top of the footings, and he shall cause the height from the bottom of the footings to the base of the wall to be at least equal to *two thirds* of the thickness of the wall at its base.

Footings.—Stability, even more than strength, is a matter requiring consideration in connection with the walls of new buildings. A wall of less thickness than that prescribed by the model clauses might be sufficient to bear a load greater than the thicker wall is likely to be called upon to bear; but if the thickness were reduced, the stability of the wall would be affected by the narrowness of its base. The provision of proper footings increases the stability of the wall by increasing the width of its bearing within or upon the ground or other foundation. The *projection* of the footings should, as in the model clause, be regulated directly or indirectly by the thickness of the wall at its base (see Plate III., Fig. 6, Appendix). In brick walls the projection of each course of footings should, as a rule, be equal to not more than a quarter of a brick. To do this would in some cases give a rather greater depth or height of footings than is required by the model clause. It will be seen, however, that the byelaw fixes a height equal to two-thirds of the thickness of the wall at its base as a minimum. Where the wall is built of brick or stone the joints in the footings should be thrown as far back within the work as possible, and additional strength may be gained by a double course at the lowest part of the footings. It may be questioned whether the sense of the clause might not be more fully expressed by exempting from the requirements as to footings walls which are to be borne upon bressummers, girders, and the like.

Buildings erected close up to boundary line of site.—It has been pointed out that in order to comply with this byelaw, in the case of a building one wall of which is built close up to, or upon the boundary line of the site, the footings on the outer side of the wall must be constructed within the lands of the adjoining owner; and that if, in order to avoid this, the builder sets back the wall within his boundary, to the extent of the projection of the footings, the effect, when the next house is built, will be to form a cavity between the houses in which damp will collect, besides requiring two walls

where a single (party) wall would suffice. Cases in which any difficulty would be experienced in connection with the construction of proper footings on the outer side of a wall constructed close up to the boundary must be very rare. But the byelaw cannot be altered so as to provide for the matter. It should be met by arrangement between the adjoining owners.

16. Every person who shall erect a new building shall cause the footings of every wall of such building to rest on the solid ground, or upon a sufficient thickness of good concrete, or upon some solid and sufficient sub-structure, as a foundation. Foundations of walls.

Foundations of walls.—As to the meaning of the term "foundation," see note on p. 107. Where the soil is not of a suitable character for foundations the words "on the solid ground, or" should be omitted. Natural foundations should only be used where the soil is both compact and of uniform consistence; otherwise unequal settlement must take place, with all that this implies. In unreliable soils, therefore, the use of concrete should be insisted upon. Artificial support for the walls may, in some cases, be available in the form of some such "solid and sufficient sub-structure" as the bases of former walls, or the walls may be borne by arches, girders, timber piles, or other similar means of support.

17. Every person who shall erect a new building shall cause every wall of such building to have a proper damp course of sheet lead, asphalte, or slates laid in cement, or of other durable material impervious to moisture, beneath the level of the lowest timbers, and at a height of not less than *six inches* above the surface of the ground adjoining such wall. Damp course.

Prevention of damp in walls.—A proper damp course is a necessary feature in the construction of a wall "for purposes of health" (see Plate III., Figs. 7 and 8, Appendix). In the case, however, of houses with basement storeys where the walls will be in contact with the earth outside, it would not be sufficient to require the provision of a damp course below the level of the lowest timbers, as damp might be admitted through the wall above that level. Hence, it is suggested that in such cases the walls of the basement storey should, from the base upwards to a height of six inches above the surface of the ground immediately adjoining the exterior of the walls, be double, with an intervening cavity, say, two and a half inches in width. If such an arrangement be adopted, there should be two damp courses, one at the base of the wall, and one at the level of the top of the cavity (see Plate III., Fig. 9, Appendix). The following proviso gives effect to the suggestion. Copies of this proviso can be obtained from the Local Government Board on application.

Provided always that where any part of a floor of the lowest storey of such building shall be intended to be below the level of the surface of the ground immediately adjoining the exterior of such storey, and so that the ground shall be in contact with Proviso for double walls in basements.

the exterior of such wall, he shall cause such storey to be enclosed with double walls, having an intervening cavity between such walls, of a width of *two and a half inches*, and extending from the base of such walls to a height of *six inches* above the surface of the ground immediately adjoining the exterior of such storey.

He shall cause such walls to be properly tied together with suitable and sufficient ties of iron, tarred and sanded, galvanized iron, vitrified stoneware, or other suitable material, inserted at distances apart not exceeding *three feet* horizontally and *eighteen inches* vertically. He shall also cause a proper damp course of sheet lead, asphalte, or slates laid in cement, or of other durable material impervious to moisture, to be inserted in every such double wall at the base of such wall and likewise at the level of the top of the cavity.

It may be pointed out that here, as in the case of the proviso as to hollow walls printed on p. 111, no provision is made for the drainage and ventilation of the cavity in the wall. The district council, however, might, if they thought fit, insert the words "properly drained and ventilated" after the words "two and a half inches," or they might render this unnecessary by requiring the cavity to be completely filled in with asphalte. The following modification of the proviso is in force in the Woodford Urban District:

Proviso for double walls or external casing to basement walls.

Provided always that where any part of a floor of the lowest storey of such building shall be intended to be below the level of the surface of the ground immediately adjoining the exterior of such storey, and where that portion of such exterior which is so situated as to be in contact with the ground is not intended to be furnished with a suitable covering, coating or casing of sheet lead, asphalte, slates laid in cement, or other material impervious to moisture, he shall cause such storey to be enclosed with double walls, etc., etc.

The remainder of the proviso follows the terms of the proviso framed by the Local Government Board.

This enables the builder to provide an external casing of impervious material for the basement walls, instead of constructing them as hollow walls, where the walls will be in contact with the earth outside.

Damp in chimney stacks and parapets.—Messrs. P. Gordon Smith and Keith D. Young (Art. "The Dwelling," in Stevenson and Murphy's "Treatise on Hygiene and Public Health") recommend the provision in certain cases of a damp proof course in chimney stacks and parapets, in order to prevent damp from driving rain soaking downwards from the exposed upper portions of walls of buildings. Such a byelaw might perhaps be regarded as one "with respect to the structure of walls . . . . and chimneys of new buildings for purposes of health."

18. For the purposes of the byelaws with respect to the structure of walls of new buildings, the measurement of height of storeys and of height and length of walls shall be determined by the following rules :— Height of storeys, and height and length of walls, how measured.

(i.) The heights of storeys shall be measured as follows :—

(*a.*) The height of a topmost storey shall be measured from the level of the upper surface of the floor up to the level of the under side of the tie of the roof or other covering, or if there is no tie then up to the level of half the vertical height of the rafters or other support of the roof :

(*b.*) The height of every storey, other than a topmost storey, shall be measured from the level of the upper surface of the floor of the storey up to the level of the upper surface of the floor of the storey next above it.

(ii.) The height of a wall shall be measured from the top of the footings to the highest part of the wall, or in the case of a gable, to half the height of the gable.

(iii.) Walls shall be deemed to be divided into distinct lengths by return walls. The length of a wall shall be measured from the centre of one return wall to the centre of another, provided that the return walls are external walls, party walls, or cross walls, of the thickness prescribed by the byelaws, and are bonded into the walls so deemed to be divided.

A wall shall not, for the purpose of this rule, be deemed a cross wall unless it is carried up to the top of the topmost storey, and unless in each storey the aggregate extent of the vertical faces or elevations of all the recesses and that of all the openings therein, taken together, shall not exceed *one half* of the whole extent of the vertical face or elevation of the wall in such storey.

Stability of walls.—The stability of walls, otherwise properly constructed on good foundations, and the materials and method of construction being similar, varies inversely in proportion to the height and length of the walls, and directly in proportion to their thickness. The byelaws take account of all three dimensions ; but it is the thickness only which they can actually regulate. Two separate sets of rules are prescribed—one for "domestic buildings" * (clauses 19 and 21), and another for "public buildings" * and

* See the definition in clause 1.

"buildings of the warehouse class" * (clauses 20 and 21),—and the thickness of walls of other than ordinary construction, is regulated by the special clause, No. 22. The clause now under consideration merely prescribes the *criteria* for ascertaining the height and length of any wall, so as to determine the application of the rules laid down in clauses 19 to 22.

Height of a storey.—The rules in the succeeding clauses are so framed as to make it necessary that the point at which one storey is to be deemed to end, and the next above it to commence in the vertical plane, should be precisely determined. The effect of clause 18 (i) is to include in each storey except the "topmost storey," * all the space between the upper surface of the floor of the storey and the upper surface of the floor above. Paragraph (*a*) makes special provision as to the measurement of the height of the topmost storey.

Length of a wall.—In a building, where one wall is connected with another, the walls may be considered in reference to their stability, otherwise than as independent walls. The byelaw recognises this by providing that walls shall be deemed to be divided into distinct lengths by "return walls." A return wall is a wall which is connected with another wall at an angle. Walls so connected afford each other lateral support, the support being greatest where the connection is at right angles, and diminishing as the angle becomes less than a right angle. For the purposes of the byelaws, no "cross wall" can be treated as a return wall, unless carried up to the top of the topmost storey†, and then only if the conditions as to the extent of any recesses or openings in the wall are complied with. The construction of external and party return walls will be regulated, where the model byelaws are in force, by clauses 11, 19, 20 and 22, and that of such cross walls as may be taken into account as return walls by clauses 12, 21 and 22. Cross walls not complying with the requirements of the byelaws may be erected; but they cannot be regarded as affording such support to party or external walls, as to be taken into account in connection with clause 18 (iii).

Domestic buildings. Thickness of external and party walls.

19. Every person who shall erect a new domestic building shall construct every external wall and every party wall of such building in accordance with the following rules, and in every case the thickness prescribed shall be the minimum thickness of which any such wall may be constructed, and the several rules shall apply only to walls built of good bricks, not less than *nine inches* long, or of suitable stone, or other blocks of hard and incombustible substance, the beds or courses being horizontal.

Height up to 25 feet.

(*a.*) Where the wall does not exceed *twenty-five feet* in height its thickness shall be as follows:—

If the wall does not exceed *thirty feet* in length, and does not comprise more than two storeys, it shall be *nine inches* thick for its whole height:

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* See the definition in clause 1.

† See definition in clause 1. The height of the topmost storey is determined by sub-clause (i) (*a*) of the present clause.

If the wall exceeds *thirty feet* in length, or comprises more than two storeys, it shall be *thirteen and a half inches* thick below the topmost storey, and *nine inches* thick for the rest of its height.

(*b.*) Where the wall exceeds *twenty-five feet* but does not exceed *thirty feet* in height, it shall be *thirteen and a half inches* thick below the topmost storey, and *nine inches* thick for the rest of its height. Height up to 30 feet

(*c.*) Where the wall exceeds *thirty feet* but does not exceed *forty feet* in height its thickness shall be as follows:— Height up to 40 feet.

If the wall does not exceed *thirty-five feet* in length it shall be *thirteen and a half inches* thick below the topmost storey, and *nine inches* thick for the rest of its height:

If the wall exceeds *thirty-five feet* in length it shall be *eighteen inches* thick for the height of one storey, then *thirteen and a half inches* thick for the rest of its height below the topmost storey, and *nine inches* thick for the rest of its height.

(*d.*) Where the wall exceeds *forty feet* but does not exceed *fifty feet* in height its thickness shall be as follows:— Height up to 50 feet.

If the wall does not exceed *thirty feet* in length it shall be *eighteen inches* thick for the height of one storey, then *thirteen and a half inches* thick for the rest of its height below the topmost storey, and *nine inches* thick for the rest of its height:

If the wall exceeds *thirty feet* but does not exceed *forty-five feet* in length it shall be *eighteen inches* thick for the height of two storeys, then *thirteen and a half inches* thick for the rest of its height:

If the wall exceeds *forty-five feet* in length it shall be *twenty-two inches* thick for the height of one storey, then *eighteen inches* thick for the height of the next storey, and then *thirteen and a half inches* thick for the rest of its height.

(*e.*) Where the wall exceeds *fifty feet* but does not exceed *sixty feet* in height its thickness shall be as follows:— Height up 60 feet.

If the wall does not exceed *forty-five feet* in length it shall be *eighteen inches* thick for the height of two storeys and *thirteen and a half inches* thick for the rest of its height:

If the wall exceeds *forty-five feet* in length it shall

be *twenty-two inches* thick for the height of one storey, then *eighteen inches* thick for the height of the next two storeys, and then *thirteen and a half inches* thick for the rest of its height.

Height up to 70 feet.

(*f.*) Where the wall exceeds *sixty feet* but does not exceed *seventy feet* in height its thickness shall be as follows:—

If the wall does not exceed *forty-five feet* in length it shall be *twenty-two inches* thick for the height of one storey, then *eighteen inches* thick for the height of the next two storeys, and then *thirteen and a half* inches thick for the rest of its height:

If the wall exceeds *forty-five feet* in length it shall be increased in thickness in each of the storeys below the uppermost two storeys by *four and a half inches* (subject to the provision herein-after contained respecting distribution in piers).

Height up to 80 feet.

(*g.*) Where the wall exceeds *seventy feet* but does not exceed *eighty feet* in height its thickness shall be as follows:—

If the wall does not exceed *forty-five feet* in length it shall be *twenty-two inches* thick for the height of one storey, then *eighteen inches* thick for the height of the next three storeys, and *thirteen and a half inches* thick for the rest of its height:

If the wall exceeds *forty-five feet* in length it shall be increased in thickness in each of the storeys below the uppermost two storeys by *four and a half inches* (subject to the provision herein-after contained respecting distribution in piers).

Height up to 90 feet.

(*h.*) Where the wall exceeds *eighty feet* but does not exceed *ninety feet* in height its thickness shall be as follows:—

If the wall does not exceed *forty-five feet* in length it shall be *twenty-six inches* thick for the height of one storey, then *twenty-two inches* thick for the height of the next storey, then *eighteen inches* thick for the height of the next three storeys, and then *thirteen and a half inches* thick for the rest of its height:

If the wall exceeds *forty-five feet* in length it shall be increased in thickness in each of the storeys below the uppermost two storeys by *four and a half inches* (subject to the provision herein-after contained respecting distribution in piers).

(*i.*) Where the wall exceeds *ninety feet* but does not exceed *one hundred feet* in height its thickness shall be as follows :— Height up to 100 feet.

If the wall does not exceed *forty-five feet* in length it shall be *twenty-six inches* thick for the height of one storey, then *twenty-two inches* thick for the height of the next two storeys, then *eighteen inches* thick for the height of the next three storeys, and then *thirteen and a half inches* thick for the rest of its height:

If the wall exceeds *forty-five feet* in length it shall be increased in thickness in each of the storeys below the uppermost two storeys, by *four and a half inches* (subject to the provision herein-after contained respecting distribution in piers).

(*j.*) If any storey exceeds in height *sixteen* times the thickness prescribed for its walls, the thickness of each external wall and of each party wall throughout that storey shall be increased to *one-sixteenth* part of the height of the storey, and the thickness of each external wall and of each party wall below that storey shall be proportionately increased (subject to the provision herein-after contained respecting distribution in piers).

(*k.*) Every external wall and every party wall of any storey which exceeds *ten feet* in height shall be not less than *thirteen and a half inches* in thickness.

(*l.*) Where by any of the foregoing rules relating to the thickness of external walls and party walls of domestic buildings an increase of thickness is required in the case of a wall exceeding *sixty feet* in height and *forty-five feet* in length, or in the case of a storey exceeding in height *sixteen* times the thickness prescribed for its walls, or in the case of a wall below that storey, the increased thickness may be confined to piers properly distributed, of which the collective widths amount to *one-fourth* part of the length of the wall. The width of the piers may nevertheless be reduced if the projection is proportionately increased, the horizontal sectional area not being diminished; but the projection of any such pier shall in no case exceed *one-third* of its width.

Thickness of walls of "domestic buildings."—The present clause regulates the thickness of the enclosing walls of new "domestic buildings," when built of brick, or stone, or other blocks of hard and incombustible substance, in

horizontal courses.* The thickness of external and party walls of similar construction in the case of warehouse and public buildings† is dealt with in clause 20. Walls of which the materials are different, or in which the courses are not horizontal, will come within the terms of clause 22. The sets-off above the ground floor are in houses usually made on the inside face of the walls, leaving the outside in one face ; but, if practicable, it may be considered better to set-off equally from both faces, because of the better balance theoretically obtainable. Tabular statements of the thicknesses required by the byelaws are sometimes suggested as more convenient for reference than the precise rules embodied in the clauses. But however this may be, such tables should not form part of the series, although they might be printed as an appendix. In paragraph (*k*) of clause 19, the Local Government Board have in certain cases agreed to "*eleven feet*" being substituted for "ten feet." A scale of thicknesses similar to that prescribed by the model clause has been adopted for buildings in the metropolis in the London Building Act, 1894. In connection with this clause, see Plates IV. and V. (Figs. 10 and 11, Appendix).

Thickness of party walls.—The thickness prescribed by the model byelaws for party walls should not be regarded as too stringent, even for small buildings. It has not infrequently been proposed to allow four-and-a-half inch party walls in the case of cottages ; but such a thickness as this must be held to be quite insufficient when the requirements of party walls are considered. In the front place as regards importance comes the question of preventing the spread of fire. A wall less than nine inches thick would be insufficient for safety in this respect, and it may be said generally that the larger the building, and the greater, consequently, the probable volume of fire if the building became ignited, the greater should be the thickness of the party walls. The policy of the model clauses which make party walls follow the same rules as to thickness as external walls, seems, therefore, to be sufficiently justified on this ground alone. But it should also be borne in mind that the party walls of semi-detached and terraced houses have an important bearing on the stability of the whole block, by reason of the support which they give to the front and rear walls. Under s. 5 (6) of the London Building Act, 1894, the re-erection of a building which has been taken down for more than one-half of its cubical extent is the erection of a new building for the purposes of that Act ; and under s. 159 of the Public Health Act, 1875 (see *ante*, p. 82), the re-erection of any building pulled down to or below the ground floor is the erection of a new building for the purposes of that Act. It may be well to mention, therefore, that in the case of *Crow* v. *Redhouse* (1895), 59 J. P. 663 ; 11 T. L. R. 563, it was held, on appeal from a divisional court (see 59 J. P. 851) that a person re-erecting a building destroyed by fire was not compelled to thicken the party wall, which had not been injured by the fire, so as to make it of the full thickness required by the London Act.

Application of the model byelaws to party walls.—The question here arises, what power have the local authority to interfere in a case where an existing wall, not complying with the requirements of the byelaws as regards party walls, is utilised by a builder as one of the "enclosing walls" (see

* The expressions "domestic building," "external wall," and "party wall," are defined in clause 1.

† See the definitions in clause 1.

clause 11) of a new building? The "use" of a wall for this purpose constitutes it a "party wall" within the meaning of the byelaws (clause 1 (*a*)). The provisions of clause 11 are so framed as to prevent the use as an enclosing wall of a new building, of a wall not constructed of incombustible materials. Clause 19, however, would not apply, because the builder is not in this case "constructing" a party wall. The thickness of the wall, as a whole, therefore, cannot be required to be increased, if insufficient. But the thickness of chimney backs will be subject to the provisions of clause 42; and woodwork must not be placed in the wall contrary to the provisions of clauses 31 and 32. The height of the wall also, must, if necessary, be increased so as to comply with the requirement in clause 26, that the builder shall "cause" every party wall of a new building to be carried up above the roof. It will be seen from these observations, which are not exhaustive, that although the powers of the local authority under such circumstances may be limited, yet some important provisions of the byelaws must be complied with.

Provision respecting distribution in piers.—The provision referred to in clause 19 (*f*), (*g*), (*h*), (*i*), (*j*), is that contained in paragraph (*l*) of the clause. The construction of piers adds to the stability of a wall by increasing the base on which the whole stands.

20. Every person who shall erect a new public building or a new building of the warehouse class shall construct every external wall and every party wall of such building in accordance with the following rules; and in every case the thickness prescribed shall be the minimum thickness of which any such wall may be constructed, and the several rules shall apply only to walls built of good bricks, not less than *nine inches* long, or of suitable stone or other blocks of hard and incombustible substance, the beds or courses being horizontal.

Public and warehouse buildings. Thickness of external and party walls.

(*a*.) Where the wall does not exceed *twenty-five feet* in height (whatever is its length) it shall be *thirteen and a half inches* thick at its base. Height up to 25 feet.

(*b*.) Where the wall exceeds *twenty-five feet* but does not exceed *thirty feet* in height it shall be at its base of the thickness following: Height up to 30 feet.

If the wall does not exceed *forty-five feet* in length it shall be *thirteen and a half inches* thick at its base:

If the wall exceeds *forty-five feet* in length it shall be *eighteen inches* thick at its base.

(*c*.) Where the wall exceeds *thirty feet* but does not exceed *forty feet* in height it shall be at its base of the thickness following:— Height up to 40 feet.

If the wall does not exceed *thirty-five feet* in length it shall be *thirteen and a half inches* thick at its base:

If the wall exceeds *thirty-five feet* but does not exceed *forty-five feet* in length it shall be *eighteen inches* thick at its base:

If the wall exceeds *forty-five feet* in length it shall be *twenty-two inches* thick at its base.

Height up to 50 feet.

(*d.*) Where the wall exceeds *forty feet* but does not exceed *fifty feet* in height it shall be at its base of the thickness following:—

If the wall does not exceed *thirty feet* in length it shall be *eighteen inches* thick at its base:

If the wall exceeds *thirty feet* but does not exceed *forty-five feet* in length it shall be *twenty-two inches* thick at its base:

If the wall exceeds *forty-five feet* in length it shall be *twenty-six inches* thick at its base.

Height up to 60 feet.

(*e.*) Where the wall exceeds *fifty feet* but does not exceed *sixty feet* in height it shall be at its base of the thickness following:—

If the wall does not exceed *forty-five feet* in length it shall be *twenty-two inches* thick at its base:

If the wall exceeds *forty-five feet* in length it shall be *twenty-six inches* thick at its base.

Height up to 70 feet.

(*f.*) Where the wall exceeds *sixty feet* but does not exceed *seventy feet* in height it shall be at its base of the thickness following:—

If the wall does not exceed *forty-five feet* in length it shall be *twenty-two inches* thick at its base:

If the wall exceeds *forty-five feet* in length it shall be increased in thickness from the base up to within *sixteen feet* from the top of the wall by *four and a half inches* (subject to the provision herein-after contained respecting distribution in piers).

Height up to 80 feet.

(*g.*) Where the wall exceeds *seventy feet* but does not exceed *eighty feet* in height it shall be at its base of the thickness following:—

If the wall does not exceed *forty-five feet* in length it shall be *twenty-two inches* thick at its base:

If the wall exceeds *forty five feet* in length it shall be increased in thickness from the base up to within *sixteen feet* from the top of the wall by *four and a half inches* (subject to the provision herein-after contained respecting distribution in piers).

(*h.*) Where the wall exceeds *eighty feet* but does not exceed *ninety feet* in height it shall be at its base of the thickness following :— Height up to 90 feet.

If the wall does not exceed *forty-five feet* in length it shall be *twenty-six inches* thick at its base :

If the wall exceeds *forty-five feet* in length it shall be increased in thickness from the base up to within *sixteen feet* from the top of the wall by *four and a half inches* (subject to the provision herein-after contained respecting distribution in piers).

(*i.*) Where the wall exceeds *ninety feet* but does not exceed *one hundred feet* in height it shall be at its base of the thickness following :— Height up to 100 feet.

If the wall does not exceed *forty-five feet* in length it shall be *twenty-six inches* thick at its base :

If the wall exceeds *forty-five feet* in length it shall be increased in thickness from the base up to within *sixteen feet* from the top of the wall by *four and a half inches* (subject to the provision herein-after contained respecting distribution in piers).

(*j.*) The thickness of the wall at the top, and for *sixteen feet* below the top, shall be *thirteen and a half inches*, and the intermediate parts of the wall between the base and *sixteen feet* below the top shall be built solid throughout the space between straight lines drawn on each side of the wall and joining the thickness at the base to the thickness at *sixteen feet* below the top. Nevertheless, in walls not exceeding *thirty feet* in height the walls of the topmost storey may be *nine inches* thick, provided the height of that storey does not exceed *ten feet*.

(*k.*) If any storey exceeds in height *fourteen* times the thickness prescribed for its walls the thickness of each external wall and of each party wall throughout that storey shall be increased to *one-fourteenth* part of the height of the storey, and the thickness of each external wall and of each party wall below that storey shall be proportionately increased (subject to the provision herein-after contained respecting distribution in piers).

(*l.*) Every external wall and every party wall of any storey which exceeds *ten feet* in height shall be not less than *thirteen and a half inches* in thickness.

(*m.*) Where by any of the foregoing rules relating to the thickness of external walls and party walls of public buildings or buildings of the warehouse class an increase of thickness is required in the case of a wall exceeding *sixty feet* in height and *forty-five feet* in length, or in the case of a storey exceeding in height *fourteen* times the thickness prescribed for its walls, or in the case of a wall below that storey, the increased thickness may be confined to piers properly distributed, of which the collective widths amount to *one fourth* part of the length of the wall. The width of the piers may nevertheless be reduced if the projection is proportionately increased, the horizontal sectional area not being diminished; but the projection of any such pier shall in no case exceed *one third* of its width.

"Public buildings" and "Buildings of the warehouse class" are defined in Byelaw 1, *ante*, p. 87. As to new buildings, see *ante*, p. 82.

Thickness of walls of "warehouse" and "public" buildings.—The walls of buildings such as are termed in the model byelaws "public buildings" and "buildings of the warehouse class," must obviously be of greater strength than those of "domestic buildings" as defined by Byelaw 1, *ante*, p. 87. The thicknesses prescribed by clause 20 should not be reduced, but if the district council thought well to substitute "*eleven feet*" for "ten feet" as the height of a storey for the purposes of paragraphs (*j*) and (*l*), the Local Government Board would probably allow this alteration. It should be borne in mind that the thicknesses prescribed in this byelaw are minimum thicknesses adapted for buildings constructed for ordinary purposes, not for buildings for the storage of machinery, or of movable loads of exceptional weight. It will be noticed that the form of the clause is different to that of No. 19, inasmuch as it prescribes the thickness of walls at their "base" and for a certain distance downwards from the top, and regulates the diminution in thickness in the intermediate parts of the wall by means of the provision in (*j*). (See Plates VI. and VII., Figs. 12 and 13, Appendix). The sets-off may be on one or on both sides of the wall, but theoretically a better balance is obtained by setting-off on both sides. Similar thicknesses to those prescribed by the model clause have been adopted for buildings in the metropolis, in the London Building Act, 1894.

Thickness of party walls.—See note on clause 19.

Provision respecting distribution in piers.—The provision referred to in paragraphs (*f*), (*g*), (*h*), (*i*), and (*k*), is that contained in paragraph (*m*).

Thickness of cross walls.

21. Every person who shall erect a new building shall construct, in accordance with the following rules, every cross wall which, in pursuance of the byelaw in that behalf, may, as a return wall, be deemed a means of determining the length

of any external wall or party wall of such building; and in every case the thickness prescribed shall be the minimum thickness of which any such wall may be constructed; and the several rules shall apply only to walls built of good bricks, not less than *nine inches* long, or of suitable stone or other blocks of hard and incombustible substance, the beds or courses being horizontal :—

The thickness of every such cross wall shall be at least *two thirds* of the thickness prescribed by the byelaw in that behalf for an external wall or party wall of the same height and length and belonging to the same class of building as that to which such cross wall belongs, but shall in no case be less than *nine inches* :—

But if such cross wall supports a superincumbent external wall the whole of such cross wall shall be of the thickness prescribed by the byelaw in that behalf for an external wall or a party wall of the same height and length and belonging to the same class of building as that to which such cross wall belongs.

Cross walls.—As elsewhere already indicated (p. 120), the model byelaws affecting the structure of cross walls are limited to such walls as, under clause 18 (*b*) (iii.), may be deemed to divide other walls into distinct lengths because of the lateral support afforded by them to such other walls. There is nothing in the clause to prevent the construction of lath and plaster or boarded partitions, or other like divisions within a building.

Thickness of walls not built of bricks, etc.

22. Every person who shall erect a new building and shall construct any external wall, party wall, or cross wall of such building of any material other than good bricks, not less than *nine inches* long, or suitable stone or other blocks of hard and incombustible substance, the beds or courses being horizontal, shall comply with the following rules with respect to the thickness of such wall :—

(*a*.) Where a wall is built of stone or of clunches of bricks, or other burnt or vitrified material, the beds or courses not being horizontal, its thickness shall be *one third* greater than that prescribed by the byelaw in that behalf for a wall built of bricks, but in other respects of the same description, height, and length, and belonging to the same class of building :

(*b*.) A wall built of other suitable material shall be deemed to be of sufficient thickness if constructed of the

thickness prescribed by the byelaw in that behalf for a wall built of bricks, but in other respects of the same description, height, and length, and belonging to the same class of building.

Walls not of ordinary construction.—This clause regulates the thickness of walls built otherwise than of brick or stone, or other blocks of hard and incombustible substance in horizontal courses. Where half-timber walls, or walls constructed of timber-framing covered with tiles are allowed, and provisoes such as those suggested on pp. 112 to 114 are added to clause 11 of the model series, this clause requires some modification, so as to regulate the thickness of such walls.

Half-timber work.

In the first case, the words "other suitable material" should be omitted from paragraph (*b*), and the words "half-timber work, or of other suitable material not specifically mentioned in this byelaw," should be inserted in their place. Where tile-hung walls are to be allowed, the following proviso should be added at the end of the clause :—

Proviso for timber framing covered with tiles.

Provided always that this byelaw shall not be deemed to apply to any part of an external wall of a new building which may, in accordance with the provisions of the byelaw in that behalf, be constructed of timber framing covered with tiles.

Precautions where openings exceed one half the vertical face of storeys.

23. Every person who shall erect a new building and shall leave in any storey or storeys of such building an extent of opening in any external wall which shall be greater than *one half* of the whole extent of the vertical face or elevation of the wall or walls of the storey or storeys in which the opening is left, shall construct—

(*a.*) Sufficient piers of brickwork or other sufficient supports of incombustible material so disposed as to carry the superstructure; and

(*b.*) A sufficient pier or piers or other sufficient supports of that description at the corner or angle of any street on which the building abuts; or

(*c.*) Such a pier or other support in each wall within *three feet* of the corner or angle of the street.

Openings in external walls.—Where, in any storey, the openings in an external wall of a building are of more than ordinary size, special provision must be made for the support of the superincumbent wall. Such a provision is contained in clause 23 of this series. The clause is more particularly applicable to buildings constructed with bay windows, and shop fronts. Corner buildings must be constructed in accordance with paragraph (*b*) or (*c*). (See Diagram, Plate VIII., Fig. 14, Appendix.)

Woodwork in external walls.

24. Every person who shall erect a new building of the warehouse class shall cause every loophole frame of wood, that is to say, every framework of wood surrounding any door or window opening in any storey of such building for the reception or delivery of goods, to be fixed at a distance of not less than *one inch and a half* from the face of any external wall.

Subject to the foregoing provision, every person who shall erect a new building shall cause all woodwork in any external wall of such building (except any bressummer, or any storey post under a bressummer, and any frame of a door or window of a shop) to be set back in reveals *four inches* at least from the outer face of such wall.

Woodwork in external walls.—This byelaw requires that, as a rule, all woodwork in the external walls of new buildings "of the warehouse class," as defined in clause 1, shall be set back from their outer face to the extent of four inches at least. Exceptions are made as regards the fronts of shops and the framework of openings, such as are frequently met with in warehouse buildings in connection with cranes or pulleys for hoisting and lowering goods to and from the upper storeys. These exceptions may be regarded as concessions to the requirements of business. The general object of the clause is to so place the inflammable framework of windows and other openings as not to afford unnecessary facilities for the spread of fire from the outside. (See Diagram, Plate VIII., Fig. 15, Appendix.) The windows, etc., if thus constructed, are also less likely in case of fire to fall outwards, than if placed flush with the outer face of the wall. Where the proviso as to walls constructed of timber-framing (see p. 112) is adopted, the clause requires slight modification as regards the second paragraph, which should read as follows :—

Alternative clause, where timber-framing is allowed.

Subject to the foregoing provision, every person who shall erect a new building shall cause all woodwork in any external wall of such building (except any bressummer, or any storey-post under a bressummer, and any frame of a door or window of a shop, and any timber-framing which in pursuance of the provisions of the byelaw in that behalf may form part of an external wall of such building) to be set back in reveals *four inches* at least from the outer face of such wall.

Copies of the clause as thus altered can be obtained on application to the Local Government Board. It is known as clause 24*. In the case of a district of a purely rural character, it might not be necessary to retain any part of this clause.

Parapets to be formed in external walls.

25. Every person who shall erect a new building shall cause such part of any external wall of such building as is within a distance of *fifteen feet* from any other building to be carried up so as to form a parapet *one foot* at least above the highest part

of any roof or gutter which adjoins such part of such external wall, and he shall cause the thickness of the parapet so carried up to be at least *nine inches* throughout.

Parapets to external walls.—This clause is intended to minimise the danger of the spread of fire from roof to roof, where the intervening space between buildings not actually adjoining is less than fifteen feet in width. In such a case, the flames from the roof of a burning building may be carried by the wind across the intervening space, cracking the slates or other covering of the roof of the adjacent building, and exposing the roof timbers, when these readily become ignited. (See Diagram, Plate VIII., Fig. 16, Appendix.) It must be admitted that the carrying up of these parapets would often detract from the appearance of buildings, besides somewhat increasing the cost of brickwork, in cases where the comparatively small size of the buildings renders the precaution practically unnecessary. An alternative form of the clause is therefore supplied by the Local Government Board on application, in which the carrying up of the parapet is only required in the case of public buildings, warehouse buildings, shops and workshops, and dwelling-houses over thirty feet in height. The following is a copy of the clause in this form :—

Parapets to be formed in external walls of certain buildings only.

25*. Every person who shall erect a new public building, a new building of the warehouse class, or a new domestic building which may be intended to be used wholly or partly as a shop or as a place of habitual employment for any person in any manufacture, trade, or business, or which may be intended to be used exclusively as a dwelling-house and may exceed *thirty feet* in height, shall cause such part of any external wall of such building as is within a distance of *fifteen feet* from any other building to be carried up so as to form a parapet *one foot* at least above the highest part of any roof or gutter which adjoins such part of such external wall, and he shall cause the thickness of the parapet so carried up to be at least *nine inches* throughout.

Damp-course in parapets.—See note, p. 118.

Party walls to be carried above roof, etc.

26. Every person who shall erect a new building shall cause every party wall of such building to be carried up *nine inches*, at the least, in thickness :

(i.) Above the roof, flat, or gutter of the highest building adjoining thereto to such height as will give, in the case of a building of the warehouse class or of a public building, a distance of at least *three feet*, and in the case of any other building a distance of at least *fifteen inches*, measured at right angles to the slope of the roof, or above the highest part of any flat or gutter, as the case may be ;

(ii.) Above any turret, dormer, lantern-light, or other erection of combustible materials fixed on the roof or flat of any building within *four feet* from the party wall, and so as to extend at least *twelve inches* higher and wider on each side than such erection :

(iii.) To a height of *twelve inches* at the least above such part of any roof as is opposite to and within *four feet* from the party wall.

In every case where the eaves of the roof project beyond the face of the building, he shall cause every party wall of such building to be properly corbelled out, in brickwork or stonework, to the full extent of such projection, and to be carried up above the projecting eaves, *nine inches* at the least in thickness to such height as will give, in the case of a building of the warehouse class or of a public building, a distance of at least *three feet*, and in the case of any other building a distance of at least *fifteen inches* measured at right angles to the slope of the roof.

Definitions.—A "dormer" is an excrescence on the sloping roof of a building for the purpose of admitting light through a vertical window frame. It is otherwise described as a window placed on the inclined plane of the roof of a house, the frame being vertical upon the rafters. A "lantern-light" is defined as a drum-shaped erection, square, circular, elliptical, or polygonal in plan, upon the top of a dome, or of an apartment, to give light. (See Gwilt's Encyclopædia of Architecture.)

Party walls to be carried up above roof, etc.—The object of clause 26 of the model series is similar to that of the previous clause, viz., the prevention of the spread of fire from roof to roof of buildings. The adoption of the clause must be strongly urged upon all local authorities making byelaws as to new buildings, whose powers are sufficient for the purpose. (See note, p. 77, and subsequent note on this page.) Any addition to the cost of each building which the enforcement of its provisions may entail will be very small in proportion to the extra security obtained. At the same time, some local authorities have hesitated to adopt the byelaw without modification, and certain alternative clauses have therefore been framed by the Local Government Board, who will supply copies on application. The clauses referred to will be dealt with below. In connection with this clause, see Diagram, Plate VIII., Fig. 17, Appendix.

Places where s. 109 of the 10 & 11 Vict. c. 34 is in force.—In cases where the provisions of s. 109 of the Towns Improvement Clauses Act, 1847, are in force by reason of the incorporation of the section with any local Act, or where otherwise the height to which party walls are to be carried up is the subject of statutory regulations, clause 26 of the model series must be omitted, and it will not be competent to the local authority to adopt either of the alternative clauses above referred to.

Party walls of certain buildings to be carried above roofs, etc.

26a. Every person who shall erect a new public building, a new building of the warehouse class, or a new domestic building which may be intended to be used wholly or partly as a shop or as a place of habitual employment for any person in any manufacture, trade, or business, or which may be intended to be used exclusively as a dwelling-house and may exceed *thirty feet* in height, shall cause every party wall of such building to be carried up *nine inches* at the least in thickness :—

(i.) Above the roof, flat, or gutter of the highest building adjoining thereto to such height as will give, in the case of a public building, or of a building of the warehouse class, a distance of at least *three feet*, and, in the case of any such domestic building as is herein-before described, a distance of at least *fifteen inches* measured at right angles to the slope of the roof, or above the highest part of any flat or gutter, as the case may be :

(ii.) Above any turret, dormer, lantern-light, or other erection of combustible materials fixed on the roof or flat of any building within *four feet* from the party wall, and so as to extend at least *twelve inches* higher and wider on each side than such erection :

(iii.) To a height of *twelve inches* at the least above such part of any roof as is opposite to and within *four feet* from the party wall.

In every case where the eaves of the roof project beyond the face of the building, he shall cause every party wall of such building to be properly corbelled out, in brick-work, or stone-work, to the full extent of such projection, and to be carried up above the projecting eaves, *nine inches* at the least in thickness, to such height as will give, in the case of a public building or of a building of the warehouse class, a distance of at least *three feet*, and, in the case of any such domestic building as is herein-before described, a distance of at least *fifteen inches* measured at right angles to the slope of the roof.

Party walls of other buildings to be carried up to the slates, etc.

Every person who shall erect a new domestic building which may be intended to be used exclusively as a dwelling-house and may not exceed *thirty feet* in height, or which may be intended to be used as an office building or other outbuilding appurtenant to a dwelling-house whether attached thereto or not, shall cause every party wall of such building to be carried up at least as high as the under side of the slates or other covering of the roof of such building.

He shall also cause the slates or other covering of the roof to be properly and solidly bedded in mortar or cement on the top of the wall, and shall cause the roof to be so constructed that no lath, timber, or woodwork of any description shall extend upon or across any part of such wall. Slates, etc., to be bedded on wall.

For the purposes of this byelaw, the height of a building shall be measured upwards from the top of the footings of the walls thereof to the level of half the vertical height of the roof, or to the top of the parapet, whichever may be the higher. Height of building, how measured.

26b. Every person who shall erect a new building shall cause every party wall of such building to be carried up at least as high as the under side of the slates or other covering of the roof of such building. Party walls to be carried up to slates, etc.

He shall also cause the slates or other covering of the roof to be properly and solidly bedded in mortar or cement on the top of the wall, and shall cause the roof to be so constructed that no lath, timber, or woodwork of any description shall extend upon or across any part of such wall. Slates, etc., to be bedded on wall.

Relaxation of requirements as to carrying party walls through roofs.—Clause 26A is so drawn as, in effect, to limit the requirements embodied in clause 26 to—

(*a*) Public buildings ;*

(*b*) Buildings of the warehouse class;* and

(*c*) Domestic buildings,*—

(i.) Intended to be used wholly or partly as shops, or as places of habitual employment for any person in any manufacture, trade, or business ; or

(ii.) Intended to be used exclusively as dwelling-houses,* and exceeding thirty feet in height.

It is recognised that in the case of the smaller class of buildings intended for use exclusively as dwelling-houses, the danger sought to be guarded against in clause 26 is less than in the case of larger houses, or of public buildings, shops and warehouses ; and accordingly, where clause 26A is adopted, small dwelling-houses without shops are exempted from the requirement that the party walls shall be carried up above the roofs. For the same reason all "office" and other outbuildings appurtenant to dwelling-houses are likewise exempted. But in all these cases the clause requires, as a minimum of precaution, that the party walls shall be carried up to the under side of the slates or other roof covering, the latter being properly and solidly bedded in mortar or cement on the top of the wall, and no woodwork being allowed to extend upon or across any part of the wall. Clause 26B leaves all

* See the definitions of these terms in clause 1, *ante*, p. 87.

buildings unregulated in the matter of carrying party walls above roofs, and merely secures the carrying up of such walls to the underside of the slates or other covering of the roof. As already remarked, neither clause 26, nor either of the alternative clauses above referred to, can be adopted where statutory provisions dealing with the same matter are in force; but in all other instances the Local Government Board would probably take exception to any series of byelaws as to new buildings which did not contain one of these or some equivalent clause, except in the case of a rural district council, whose power to make byelaws was derived merely from the adoption of Part III. of the Public Health Acts Amendment Act, 1890 (see note p. 77).

Walls to be coped.

27. Every person who shall erect a new building shall cause every wall of such building, when carried up above any roof, flat, or gutter, so as to form a parapet, to be properly coped or otherwise protected, in order to prevent water from running down the sides of such parapet, or soaking into any wall.

Coping of walls.—This provision is necessary in order to prevent rain-water from trickling down the sides of and soaking into a wall carried up above the roof, etc., so as to form a parapet. It does not itself require any wall to be so carried up. (See clauses 25 and 26, and, as to damp courses in parapets, the note on p. 118.)

Openings in party walls prohibited.

28. A person who shall erect a new building shall not construct any party wall of such building so that any opening shall be made or left in such wall.

Openings in party walls.—The object of this clause is, of course, the prevention of the spread of fire. Obviously the protection which a properly constructed party wall affords in this respect would be greatly reduced, if not altogether neutralised, if openings in the wall were permitted. The clause is not limited to the prohibition, in the case of new buildings, of means of access from one building to another through the party wall. The expression "party wall," as defined by clause 1, would include a wall which is used for separation of adjoining buildings in part only of its length or height. A window opening in the exposed portion of such a wall might be a source of great danger to the building were a fire to break out in the building adjoining. The byelaw does not prevent openings being made in party walls after the buildings are completed. Under s. 23 (4) of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), however, a byelaw may be made by any local authority in whose district that enactment is in force* "to prevent buildings which have been erected in accordance with byelaws made under the Public Health Acts from being altered in such a way that if at first so constructed they would have contravened the byelaws." There is no authority under the Public Health Acts for a byelaw purporting to regulate the process of uniting buildings by making openings in party walls. In the metropolis the matter is regulated by specific enactment in the London Building Act, 1894 (57 & 58 Vict. c. ccxiii.).

* See ss. 3 and 5 of the Act.

29. A person who shall erect a new building shall not make any recess in any external wall or party wall of such building :— Recesses in walls.

(*a.*) Unless the back of such recess be at the least *nine inches* thick ;

(*b.*) Unless a sufficient arch be turned in every storey over every such recess ;

(*c.*) Unless in each storey the aggregate extent of recesses having backs of less thickness than the thickness prescribed by any byelaw in that behalf for the wall in which such recesses are made do not exceed *one half* of the extent of the vertical superficies of such wall ;

(*d.*) Unless the side of any such recess nearest to the inner face of any return external wall is distant at the least *thirteen and a half inches* therefrom.

Recesses.—The "extent" of a recess for the purposes of this byelaw is to be ascertained with reference to the area of its vertical face or elevation. Whether the recesses are formed for ornament or to secure more floor room, the matters dealt with in this byelaw must be rigidly controlled if the stability of the walls is not to be affected, and the precise rules prescribed by the clauses governing the thickness of walls rendered nugatory. Similar rules to those here prescribed are embodied in s. 54 of the London Building Act, 1894. In that section the thickness of the back of a recess in a party wall is required to be not less than *thirteen inches* ; but where such a recess does not exceed five inches in depth, the Act permits corbelling in brick or stone to be substituted for the arching. Subject to this an arch of at least *two rings of brickwork* of the full depth of the recess is required by the section to be turned over every recess on every storey. (See Diagram, Plate IX., Figs. 18 and 19, Appendix.)

30. A person who shall erect a new building shall not make in any wall of such building any chase which shall be wider than *fourteen inches* or more than *four and a half inches* deep from the face of such wall, or shall leave less than *nine inches* in thickness at the back or opposite side thereof, or which shall be within *thirteen and a half inches* from any other chase, or within *seven feet* from any other chase on the same side of such wall, or within *thirteen and a half inches* from any return wall. Chases in walls.

Chases.—A chase may be described as a vertical indent in a wall, formed either for the purpose of joining thereto another wall, or for so fixing pipes, etc., that they shall not extend beyond the face of the wall. (See Diagram, Plate IX., Fig. 19, Appendix.) Like the previous clause, this is a provision "for securing stability." (See, for a similar provision affecting the metropolis, s. 60 of the London Building Act, 1894.)

Bond timbers, etc. in party walls prohibited.

31. A person who shall erect a new building shall not place in any party wall of such building any bond timber, or any plate, block, brick, or plug of wood.

Timbers in party walls.—Section 56 (3) of the London Building Act, 1894, contains a similar prohibition as regards the metropolis of the building into a party wall of any "bond timber or wood plate." "Bond timbers" are timbers inserted during the construction of walls, with a view to tying the work together longitudinally during settlement. They are now little used, as they have been a frequent cause of the collapse of the walls of burning buildings through the destruction of the timber by the fire. A "wood-plate" may be placed horizontally upon or against a wall for receiving the ends of rafters, girders, or joists. "Wood-bricks" are blocks of wood of the shape and size of ordinary bricks let into a wall in order to give a hold to the nails fixing other woodwork. The model byelaw prevents any of these being placed in a party wall, as to do so would be to substitute to some extent a combustible for an incombustible material in a wall designed to afford protection from the spread of fire, while the necessity for any such arrangement may be obviated by the use of hoop iron for bonding and other well understood expedients. (See also clause 32 and note thereon.)

Bressummers, beams and joists in party walls.

32. A person who shall erect a new building shall not place the end of any bressummer, beam, or joist in any party wall of such building, unless the end of such bressummer, beam, or joist be at least *four and a half inches* distant from the centre line of such party wall.

Bressummers, beams, and joists.—The London Building Act, 1894, defines a "bressummer" as "a wooden beam or a metallic girder which carries a wall." "Beams" also may be either of wood or metal. They either support a weight or are employed to counteract two opposite and equal forces, either drawing or compressing them, in the direction of their length. "Joists" are baulks of timber laid horizontally on edge at a specified distance apart, for the purpose of forming a framework to which the boards of a floor or the laths of a ceiling may be attached. (See Gwilt's Encyclopædia of Architecture.)

Bressummers, etc. in party walls.—The model byelaws aim consistently at getting a thickness of not less than nine inches of brickwork or stonework in every part of a party wall. In the present case the clause prohibits the placing the end of any bressummer, beam, or joist within four and a half inches of the centre line of any such wall, so that if the end of another bressummer, beam, or joist be inserted on the other side of the wall, the prescribed thickness of nine inches, as well as the proper balance of the wall, may be maintained. This clause appears to have been based on s. 15 of the Metropolitan Building Act, 1855 (18 & 19 Vict. c. cxxii.), since repealed by s. 215 of the London Building Act, 1894. The re-enactment in s. 56 of the latter Act applies only to wooden bressummers, beams, and joists, and says nothing about keeping the ends of metallic bressummers the same distance from the centre line of a party wall as a wooden bressummer. The clause above, however, will apply to any bressummer, whether of wood or metal.

It will entirely prohibit the end of any bressummer, beam, or joist being placed in any party wall which is not more than nine inches thick. In such a case a bressummer must be supported as required by clause 34, and the joists should be laid parallel to the party walls, other timbers being supported upon corbels or iron brackets. (See Diagram, Plate IX., Fig. 20, Appendix.)

Templates for girders.

33. Every person who shall erect a new building shall cause every girder to be borne by a sufficient template of stone, iron, terra-cotta, or vitrified stoneware of the full breadth of the girder.

Use of templates.—The use of a "template" (or "templet") is to distribute the weight of the girder. It may, under this byelaw, be of stone, iron, terra-cotta, or vitrified stoneware, but not of wood. It must be of the full breadth of the girder, and it may be questioned whether the clause should not require it to be slightly wider than this.

Bearing of bressummers.

34. Every person who shall erect a new building shall cause every bressummer to have a bearing in the direction of its length of *four inches* at least at each end, on a sufficient pier of brick or stone, or on a storey post of timber or iron fixed on a solid foundation, in addition to its bearing on any party wall; and

He shall also, if necessary, cause such bressummer to have such other storey posts, iron columns, stanchions, or piers of brick or stone on a solid foundation under the same as may be sufficient to carry the superstructure.

Bearing of bressummers.—The object of this clause is to secure adequate support for the bressummer, independently of its bearing on any party wall, on which otherwise the whole of the weight carried by the bressummer would be concentrated. "Storey posts" (see Plate IX. Fig. 21, Appendix), are upright supports which should either have a solid wall below, or stand upon proper bedstones with their ends let into sockets. (See Gwilt's Encyclopædia of Architecture.) "Columns" and "stanchions" are other forms of upright supports which must also rest upon proper foundations. Requirements similar to those of the present clause are in force in the metropolis (see s. 56 of the London Building Act, 1894).

Space between joists, etc. to be stopped.

35. Every person who shall erect a new building shall cause the open space inside any partition wall of such building, or between the joists in any wall of such building, to be stopped with brickwork, concrete, pugging, or other incombustible material, at every floor and ceiling.

Space between joists, etc. to be stopped.—If this requirement were omitted, and the space inside partitions and between joists were consequently

left unstopped, great facilities would be offered for the spread of fire from room to room, and from floor to floor. "Pugging" is a name given to a coarse kind of mortar.

Foundations, etc. of chimneys.

36. Every person who shall erect a new building shall, except in such case as is herein-after provided, cause every chimney of such building to be built on solid foundations and with footings similar to the footings of the wall against which such chimney is built, and to be properly bonded into such wall:

Provided, nevertheless, that such person may cause any chimney of such building to be built on sufficient corbels of brick, stone, or other hard and incombustible materials, if the work so corbelled out does not project from the wall more than the thickness of the wall measured immediately below the corbel.

Foundations of chimneys.—It is unnecessary to enlarge upon the necessity, in the interests of stability, of securing proper foundations for chimneys. The requirements of this byelaw are similar to those in force in the metropolis (see s. 64 (1) of the London Building Act, 1894). It may, however, be mentioned that the London Act allows chimneys to be "carried upon iron girders with direct bearings upon party external or cross walls." An illustration of the proviso will be found in Plate X., Fig. 24, Appendix.

Flues to be rendered or pargeted.

37. Every person who shall erect a new building shall cause the inside of every flue of such building to be properly rendered or pargeted as such flue is carried up, unless the whole flue shall be lined with fireproof piping of stoneware at least *one inch* thick, and unless the spandril angles shall be filled in solid with brickwork or other incombustible material.

Such person shall also cause the back or outside of such flue, which shall not be constructed so as to form part of the outer face of an external wall, to be properly rendered in every case where the brickwork of which such back or outside may be constructed is less than *nine inches* thick.

Flues.—The cavity or hollow from the fireplace contracts as it ascends to the top of the room. This part of the chimney is termed the "gathering," and the "flue" is the tube or cavity from the point where the gathering ceases up to the top of the chimney. Clause 37 of the model byelaws aims at the prevention as far as possible of the lodgment of soot on the inner surface of the flue, and of the penetration of fire between the joints of the brickwork. With this view it requires the inside of the flue to be coated with plaster or lined with fireproof piping. The gathering as well as the flue should be rendered or pargeted. The "spandril angles" are the spaces formed between

the lining of the flue and the angles of the brickwork or masonry enclosing the flue. The "back" of the flue is that side which is opposite to the "breast," the breast being the part of the wall containing the chimney which faces the room. The second paragraph of the clause, it will be seen, applies only to flues in party or cross walls where the back is less than nine inches in thickness. The thickness of the back is regulated by clause 42.

Furnace, etc. flues.

38. Every person who shall erect a new building shall cause every flue in such building which may be intended for use in connection with any furnace, cockle, steam boiler, or close-fire, constructed for any purpose of trade, business, or manufacture, or which may be intended for use in connection with any cooking range or cooking apparatus of such building when occupied as a hotel, tavern, or eating house, to be surrounded with brickwork at least *nine inches* thick for a distance of *ten feet* at the least in height from the floor on which such furnace, cockle, steam boiler, close-fire, cooking range, or cooking apparatus may be constructed or placed.

Furnace, etc. flues.—A similar provision to the above is contained in s. 64 (4) of the London Building Act, 1894, in which, however, the thickness of eight and a half inches (corresponding to nine inches in the model byelaws) is required to be carried "to the level of the ceiling of the room next above" the furnace, etc. A "cockle" is a form of stove. In some hop-growing districts, the words "other than the cockle of any oast-house or hop-kiln, or with any," have been inserted after "cockle" in line 3.

Support of chimney breasts.

39. Every person who shall erect a new building shall cause a sufficient arch of brick or stone or a sufficient bar of wrought iron to be built over the opening of every chimney of such building to support the breast of such chimney; and if the breast projects more than *four and a half inches* from the face of the wall, and the jamb on either side is of less width than *thirteen and a half inches*, he shall cause the abutments to be tied in by a bar or bars of wrought iron of sufficient strength, *eighteen inches* longer than the opening, turned up and down at the ends, and built into the jambs on each side.

Support of chimney breasts.—This clause, the terms of which are similar to those of s. 64 (3) of the London Building Act, 1894, provides for the support of a chimney breast by means of an arch of brick or stone (see Plate X., Fig. 22, Appendix), or a strong bar of iron over the opening. The term "jamb" is applied to the vertical portion of masonry or brickwork on each side of the chimney opening, on which the arch or bar discharging the weight of the breast will have an abutment (Plate X., Fig. 23 Appendix). Where otherwise the jambs would be insufficient to sustain the thrust to which they are to be subjected, they must be tied in as mentioned in the latter part of the byelaw.

Jambs of chimney openings.

40. Every person who shall erect a new building shall cause the jambs of every chimney of such building to be at least *nine inches* wide on each side of the opening of such chimney.

Width of jambs of chimney openings.—Practically the same provision is embodied in s. 64 (8) of the London Building Act, 1894. It is necessary alike "for securing stability" and for "the prevention of fires."

Thickness of chimney breasts, etc.

41. Every person who shall erect a new building shall cause the breast of every chimney of such building and the brickwork or stonework surrounding every smoke flue and every copper flue of such building to be at least *four and a half inches* in thickness.

Thickness of chimney breasts, etc.—This clause should be read with clause No. 37. Section 6 of the Chimney Sweepers and Chimney Regulation Act, 1840 (3 & 4 Vict. c. 85), prescribes the following regulations as to the construction of chimneys and flues :—

"All withs and partitions between any chimney or flue which at any time shall be built or rebuilt, shall be of brick or stone, and at least equal to half a brick in thickness ; and every breast-back and with or partition of any chimney or flue hereafter to be built or rebuilt shall be built of sound materials, and the joints of the work well filled in with good mortar or cement, and rendered or stuccoed within ; and also every chimney or flue hereafter to be built or rebuilt in any wall, or of greater length than four feet out of the wall, not being a circular chimney or flue twelve inches in diameter, shall be in every section of the same not less than fourteen inches by nine inches ; and no chimney or flue shall be constructed with any angle therein which shall be less obtuse than an angle of one hundred and twenty degrees, except as herein-after excepted ; and every salient or projecting angle in any chimney or flue shall be rounded off four inches at the least ; upon pain of forfeiture, by every master builder or other master workman who shall make or cause to be made such chimney or flue, of any sum of not less than ten pounds nor exceeding fifty pounds : Provided nevertheless, that notwithstanding this Act chimneys or flues may be built at angles with each other of ninety degrees and more, such chimneys or flues having therein proper doors or openings not less than six inches square."

Thickness of chimney backs.

42. Every person who shall erect a new building shall cause the back of any chimney opening in a party wall of any room which may be constructed for occupation as a kitchen to be at least *nine inches* thick to the height of at least *six feet* above such chimney opening, and he shall cause such thickness to be continued at the back of the flue.

Such person shall cause the back of every other chimney opening in such building, from the hearth up to the height of *twelve inches* above such opening, to be at least *four and a half inches* thick if such opening be in an external wall, and *nine*

inches thick if such opening be elsewhere than in an external wall.

Thickness of chimney backs.—The effect of this clause is to require the backs of chimneys to be at least nine inches in thickness, except where they are constructed in external walls, when they may be only four and a half inches in thickness. In the case of a kitchen chimney in a party wall, the prescribed thickness should, in order to obviate danger from fire to the adjoining building, be carried up six feet above the chimney opening and continued at the back of the flue. In the other cases specified, where a thickness of nine inches is required, it will be sufficient if it be carried up not less than one foot above the opening (see Diagram, Plate X., Fig. 22, Appendix).

43. Every person who shall erect a new building shall cause the upper side of every flue of such building, when the course of such flue makes with the horizon an angle of less than *forty-five* degrees, to be at least *nine inches* in thickness. Thickness of flues constructed at an angle.

Thickness of flues.—A similar provision is contained in s. 64 (11) of the London Building Act, 1894. Section 6 of the Chimney Sweepers and Chimney Regulation Act, 1840 (3 & 4 Vict. c. 85), enacts that no flue shall be constructed with any angle therein less obtuse than one hundred and twenty degrees, except in cases where proper doors or openings at least six inches square are provided, when the angles may be ninety degrees and more. Every salient or projecting angle in any flue is, by the same enactment, to be rounded off four inches at least (see *ante*, p. 142).

44. Every person who shall erect a new building shall construct every arch, upon which any flue may be carried, so that such arch shall be effectually supported by means of a bar or bars of wrought iron of adequate strength. Support of arches carrying flues.

He shall cause every such bar, to the extent of *four and a half inches*, to be securely built or pinned into the wall at each end thereof.

He shall provide, for every *nine inches* of the width of the soffit of such arch, one, at the least, of such bars as a means of support for such arch.

Flues carried upon arches.—This byelaw will apply in any case where a flue is carried upon an arch from an outbuilding to one of the main walls of the building, in order to continue it up above the roof of the main building. The degree of support is regulated by the width of the "soffit" or under surface of the arch.

45. Every person who shall erect a new building shall cause every chimney shaft or smoke flue of such building to be carried up in brickwork or stonework all round at least *four and a half* Chimney shafts, etc. to be carried above the roof.

inches thick to a height of not less than *three feet* above the roof, flat, or gutter adjoining thereto, measured at the highest point in the line of junction with such roof, flat, or gutter.

Minimum height of chimney shafts.—A "chimney shaft" is that part of a chimney which rises above the roof. A number of shafts may be collected into one mass, which is then termed a "stack." But whether standing singly or as part of a stack, it is important, with a view to the prevention of fires, and also to secure immunity from down draught, that the shaft shall be carried up a sufficient height above the roof. This byelaw requires the *brickwork* or *masonry* of the shaft to be carried up at least three feet higher than the roof, measuring on the upper side of the shaft. A similar provision is in force in London (see s. 64 (12) of the London Building Act, 1894).

Damp course in chimney stacks.—See note, p. 118.

Maximum height of chimney shafts.

46. A person who shall erect a new building shall not cause the brickwork or stonework of any chimney shaft of such building, other than a chimney shaft of the furnace of any steam engine, brewery, distillery, or manufactory, to be built higher above the roof, flat, or gutter adjoining such chimney shaft, measured from the highest point in the line of junction with such roof, flat, or gutter, than a height equal to *six* times the least width of such chimney shaft at the level of such highest point, unless such chimney shaft shall be built with and bonded to another chimney shaft not in the same line with such first-mentioned chimney shaft, or shall be otherwise made secure.

Maximum height of chimney shafts.—While the provisions of clause 46 are necessary for the prevention of fires, it is no less requisite, "for securing stability," that the maximum height to which ordinary chimney shafts may be carried above the roof, should be fixed by the byelaws. This is done by the present clause. (See Diagram, Plate X., Fig. 25, Appendix.)

Sectional area of chimneys and flues.—Section 6 of the Chimney Sweepers and Chimney Regulation Act, 1840 (3 & 4 Vict. c. 85), provides that every chimney or flue built or rebuilt in any wall after the passing of the Act, not being a circular chimney or flue *twelve inches* in diameter, shall be of a sectional area not less than *fourteen inches* by *nine inches* (see *ante*, p. 142).

Metal fastenings in chimneys.

47. A person who shall erect a new building shall not place any iron holdfast or other metal fastening nearer than *two inches* to the inside of any flue or chimney opening in such building.

Metal fastenings.—This clause corresponds to s. 64 (22) of the London Building Act, 1894. It is a byelaw "for the prevention of fires."

48. A person who shall erect a new building shall not place any timber or woodwork :— Woodwork in chimneys.

(*a.*) In any wall or chimney breast of such building nearer than *nine inches* to the inside of any flue or chimney opening :

(*b.*) Under any chimney opening of such building within *fifteen inches* from the upper surface of the hearth thereof.

A person who shall erect a new building shall not drive any wooden plug into any wall or chimney breast of such building nearer than *six inches* to the inside of any flue or chimney opening.

Woodwork in chimneys.—For similar provisions with a view to the prevention of fires, see s. 64 (21) (22) of the London Building Act, 1894. The clause is one to which great importance should be attached. The provision in sub-clause (*b*) refers to the "back-hearth," which may be part of the wall or chimney-breast.

Hearths.—The structure of hearths can only be regulated, where no local Act is in force, if, by adoption or otherwise, the district council have obtained power to make byelaws on the subject under s. 23 (1) of the Public Health Acts Amendment Act, 1890 (see ss. 3 and 5 of the Act). If the words "*and with respect to hearths*" are added to the heading on p. 106, a clause as to hearths may be inserted (where the district council have power to make the byelaw) between clauses 48 and 49. For a form of byelaw, see Model Byelaws, vol. ii.

49. Every person who shall erect a new building shall cause the face of the brickwork or stonework about any flue or chimney opening of such building, where such face is at a distance of less than *two inches* from any timber or woodwork, and where the substance of such brickwork or stonework is less than *nine inches* thick, to be properly rendered. Brickwork, etc. about flues and chimney openings to be rendered.

Brickwork about flues and chimneys.—This byelaw is intended to prevent the danger of fire which might arise through the perishing of the mortar filling the interstices of the brickwork, where woodwork is in close proximity to the face of the brickwork.

50. A person who shall erect a new building shall not construct any chimney or flue of such building so as to make or leave in such chimney or flue any opening for the insertion of any ventilating valve, or for any other purpose, unless such Openings in chimneys.

opening be at least *nine inches* distant from any timber or other combustible substance.

Openings in chimneys.—In London, openings must not be made in chimneys nearer than *twelve inches* to any timber or combustible substance. (See s. 64 (20) of the London Building Act, 1894.)

Pipes for conveying smoke, etc.

51. A person who shall erect a new building shall not fix in such building any pipe for the purpose of conveying smoke or other products of combustion, unless such pipe be so fixed at the distance of *nine inches* at the least from any combustible substance.

Smoke pipes.—A similar enactment with regard to the metropolis will be found in s. 66 (3) of the London Building Act, 1894.

Chimney shafts of factories, etc.—If the local authority are desirous of regulating the construction of large chimney shafts such as those of breweries, manufactories, etc., the provisions of s. 65 of the London Building Act, 1894, might be considered by them. Certain requirements of the section referred to are made subject to the permission of the county council, or the discretion of the district surveyor; but except in this respect the provisions of the section might form a basis for a byelaw to be submitted to the Local Government Board for their preliminary approval.

Chimney pots.—The model byelaws contain no provision as to the fixing of chimney pots. Such a byelaw would probably be *ultrâ vires*, as the chimney pot (if any) forms no part of the structure of the chimney.

Covering of roof, etc.

52. Every person who shall erect a new building shall cause the flat and roof of such building, and every turret, dormer, lantern-light, skylight, or other erection placed on the flat or roof of such building to be externally covered with slates, tiles, metal, or other incombustible materials, except as regards any door, door frame, window or window frame of any such turret, dormer, lantern-light, skylight, or other erection.

Construction of roof gutters, etc.

He shall also cause every gutter, shoot, or trough in connection with the roof of such building to be constructed of incombustible materials.

Structure of roofs.—The provisions of this byelaw, which are substantially reproduced in s. 61 (1) of the London Building Act, 1894, are extremely important "for the prevention of fires," and in a minor degree "for purposes of health." One effect of the clause is of course to prevent the construction of thatched roofs, in connection with new buildings, wherever the byelaw is in force. The disadvantages of such a mode of construction, on

sanitary and other grounds, besides that of the danger of fire, are now sufficiently recognised to place the reasonableness of the byelaw beyond question. It seems desirable, in a series of byelaws regulating the structure of roofs, to prescribe the scantlings of roof timbers, and other matters not dealt with in the model clauses of the Local Government Board. Attention may therefore be called to the clauses on this subject, which are suggested in Model Byelaws, vol. ii., and which, if the district council thought well, might be inserted in the present series immediately after clause 52 (or 52A if adopted). Wooden guttering, such as is prohibited by this byelaw, has been the frequent cause of the spread of fire from one house to another.

Roof-guttering.

52a. Every person who shall erect a new building shall cause the roof or flat of such building to be so constructed that all water falling on such roof or flat shall be received in suitable gutters, shoots, or troughs, and shall thence be discharged into a pipe or trunk provided in pursuance of the byelaw in that behalf.

Roof-guttering.—Section 74 of the Towns Improvement Clauses Act, 1847 (10 & 11 Vict. c. 34), which is incorporated with the Public Health Act, 1875, and, as so incorporated, amended by s. 160 of the latter Act, enables an urban district council, and any rural district council invested with the necessary urban powers, to make an order requiring any house or building in or near a street to be furnished with a shoot or trough, connected with a similar shoot on the adjoining house, or with a pipe or trunk affixed to the front or side of the building from the roof to the ground, to carry the water from the roof in such manner that the water shall not fall upon persons passing along the street, or flow over the footpath. The section is silent as to what is to be done where there is no footpath, and in any case it seems desirable that the byelaws of the local authority should require the provision of proper roof-guttering and down-spouts when a new building is being erected, whether in or near to a street or not. The above clause 52A, and a further clause (60A), which will be found in its proper place in the series, have been framed for this purpose. The former seems to be a byelaw as to the structure of roofs "for purposes of health," and the latter one "with respect to the drainage of buildings."

Additional byelaws as to structure of roofs.– Any additional clauses as to roofs, such as are referred to in the note on clause 52, might be inserted here.

Byelaws as to the structure of floors and staircases.—Where the local authority have power under s. 23 (1) of the Public Health Acts Amendment Act, 1890, to make byelaws as to the structure of floors and staircases, such byelaws may be inserted, under an appropriate heading, between clauses 52 and 53 of this series. For forms of byelaws, see Model Byelaws, vol. ii.

With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings.

Open space in front of domestic buildings.

53. Every person who shall erect a new domestic building shall provide in front of such building an open space, which shall be free from any erection thereon above the level of the ground, except any portico, porch, step, or other like projection from such building, or any gate, fence, or wall, not exceeding *seven feet* in height, and which, measured to the boundary of any lands or premises immediately opposite, or to the opposite side of any street which such building may front, shall, throughout the whole line of frontage of such building, extend to a distance of *twenty-four feet* at the least; such distance being measured in every case at right angles to the external face of any wall of such building which shall front or abut on such open space.

A person who shall make any alteration in or addition to such building shall not, by such alteration or addition, diminish the extent of open space provided in pursuance of this byelaw in connection with such building.

Open space about buildings.—The sufficiency of the space about buildings affects the amenity of life in many ways. In these byelaws it can only be dealt with directly as affecting the "free circulation of air." Incidentally, however, the model clauses dealing with the matter will be found to have relation to the width of streets, and the provision of sanitary accommodation, as well as the ventilation of buildings, with which latter subject that of open space is naturally associated in s. 157 of the Public Health Act, 1875. One all important point is that there should be a sufficient extent of open space both in front and in rear of every building, so as to secure what is known as "through ventilation" (see, however, the proviso on p. 156). Clause 53 of the model series deals with space in front, and clause 54 with space in rear, of "domestic buildings" as defined in clause 1, and are thus complementary the one to the other.

Where a byelaw of a local authority provided that wherever any open space had been left belonging to any building, it should never afterwards be built upon without consent of the authority, and without having an open space of a specified size and dimensions, it was held by the Court of Queen's Bench that if it applied to old buildings it was invalid (*Tucker* v. *Rees* (1861), 25 J. P. 789; 7 Jur. (N.S.) 629). As to what is to be understood by "old buildings" here, see note on p. 79.

Where a byelaw provided that a certain amount of air space should be left in the rear of any new building, and a person built, in contravention of that byelaw, without leaving the required space, it was held that the local authority might pull down the offending building, consistently with safety, in any way they pleased, but not in a dangerous way; so that where there had been

excess in pulling down the building, they were not liable unless the damage done was appreciable (*Jagger* v. *Doncaster Rural Sanitary Authority* (1890), 54 J. P. 438).

Under a byelaw which required that in the rear or at the side of every building there should be left an open space of not less than one hundred feet, the distance across which, or between such building and the opposite property at the rear or side, shall be twenty-five feet, the distance of twenty-five feet is to be measured at any and every part of the building to the opposite property, and it is not sufficient that in some part of the building there is a distance of twenty-five feet to the opposite property (*Anderton* v. *Birkenhead Improvement Commissioners* (1863), 32 L. J. M. C. 137; 9 Jur. (N.S.) 1058; S.C., *Anderton* v. *Rigby*, 13 C. B. (N.S.) 603).

Where, under a local improvement Act, a byelaw was made which provided that every new building should have in the rear or side an open space of at least one hundred and fifty square feet, "and wherever any open space had been left when the building was approved, such space shall never afterwards be built upon without the approval of the council," it was held that the byelaw was bad, so far as prohibiting future buildings on the open space in the rear (*Quinby* v. *Mayor of Liverpool* (1889), 53 J. P. 213). The argument and the decision in this case went on the ground that, under the byelaw, the open space could never have been built upon, whatever its extent might be.

Open space in front of buildings.—Where the model clause 6 is adopted, the narrowest street that can be laid out (not reckoning back streets) will be at least twenty-four feet in width. The full amount of space required by clause 53 to be provided in front of a "domestic building" would therefore be secured if the building were placed flush with the boundary of any front street laid out in accordance with the byelaws, or, in other words, if the building were constructed without any forecourt. If there were any portico, porch, step, or other projection from the front of the building, the general line of the building would have to be set back from the street boundary to the extent at least of the width of the projection,* thus making it necessary to provide more than twenty-four feet of open space in front. But in any case where a building was not intended to front to a street, the space in front could be *in*clusive of any such projection, or of any forecourt, the walls or fences and gates of which did not exceed seven feet in height.

Encroachment on open space.—When the prescribed extent of open space in front of a "domestic building" has once been secured under this byelaw, the second paragraph of the clause prevents the building being so altered as to reduce the extent of space to less than twenty-four feet. Cases, however, have arisen where, by the erection of new buildings, the open space required to satisfy the requirements of the byelaw has been encroached upon.

Encroachment by new building.—In order to meet difficulties of this kind, the district council might consider the expediency of omitting the words "shall not, by such alteration or addition," in the second paragraph, and substituting "or shall erect any new building, shall not, by such alteration, addition or erection." The provision will not, in any event, apply to the open space in front of any building existing at the date of the confirmation

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* See the definition of "width" in clause 1 as affecting the operation of clause 6.

of the byelaws. The following byelaw, however, is in force within the borough of Bristol :—

Encroachment on open space about existing buildings.

Where a domestic building erected before the date when these byelaws come into force, but after [the times mentioned in section 157 of the Public Health Act, 1875] has or shall have in front, or in the rear thereof, an open space belonging thereto, a person who shall make any alteration in, or addition to such building, or shall erect any new building, shall not, by such alteration, addition, or erection, diminish the extent of such open space in such a manner that the same shall be less than the minimum open space required to be provided in connection with a building subject to the provisions of [model byelaws 53 and 54].

A byelaw of similar effect is in force in the borough of Margate. The only question that arises is, how far the decision in the case of *Tucker* v. *Rees*, affects the validity of such a byelaw (see, however, the note on p. 79). It should be pointed out that neither the second paragraph of the model byelaw, nor the Bristol clause, prevents building on so much of any open space provided in front of a building as may be in excess of the twenty-four feet minimum. The latter clause applies to open space in rear of buildings, as well as to open space in front. (See clause 54 of the model series.)

Open space in front of new buildings fronting to existing streets.—The provisions of clause 53 are valuable, apart from other considerations, as securing the widening of old and narrow streets, so far at least as the air space is concerned, as buildings are pulled down and re-erected in such streets. It has, however, been pointed out, that the effect of the clause in the case of such streets might be to create very irregular lines of frontage where the rebuilding in any street took place piecemeal, and also that the clause might press unfairly upon individuals, because while the first person to rebuild in any particular part of the street must cause his building to be set back so as to provide the full extent of open space required, the person owning the opposite property could afterwards proceed to rebuild without setting back at all. The following clause, of which copies can be obtained from the Local Government Board, may, however, be substituted for clause 53, if the district council think well. The effect of it (see Diagram, Plate XI., Fig. 26, Appendix) is to require a person erecting a new building fronting to any street laid out before the confirmation of the byelaw, and being of a less width than twenty-four feet, to set back by so much only as shall be equal to one-half of the difference between the width of the street and twenty-four feet.

53a. Every person who shall erect a new domestic building shall provide in front of such building an open space, which, measured to the boundary of any lands or premises immediately opposite, or to the opposite side of any street which may not be less than *twenty-four feet* in width at the point where such building may front thereon shall, throughout the whole line of frontage of such building, extend to a distance of *twenty-four feet* at the least; such distance being measured in every case

at right angles to the external face of any wall of such building which shall front or abut on such open space.

Where a new domestic building may be intended to front on a street laid out before the confirmation of these byelaws, and of a less width than *twenty-four feet*, the person who shall erect such building shall provide in front thereof an open space, which, measured to the opposite side of such street throughout the whole line of frontage of such building, shall extend to a distance equal at least to the width of such street, together with one-half of the difference between such width and *twenty-four feet*.

Any open space provided in pursuance of this byelaw, shall be free from any erection thereon above the level of the ground, except any portico, porch, step or other like projection from such building, or any gate, fence or wall not exceeding *seven feet* in height.

A person who shall make any alteration in or addition to such building, shall not, by such alteration or addition, diminish the extent of open space provided in pursuance of this byelaw, in connection with such building.

With regard to the last paragraph of this alternative clause, see the note as to encroachments on the open space, in connection with clause 53.

54. Every person who shall erect a new domestic building shall provide in the rear of such building an open space exclusively belonging to such building, and of an aggregate extent of not less than *one hundred and fifty square feet*, and free from any erection thereon above the level of the ground, except a watercloset, earthcloset, or privy, and an ashpit. Open space in rear of domestic buildings.

He shall cause such open space to extend, laterally, throughout the entire width of such building, and he shall cause the distance across such open space from every part of such building to the boundary of any lands or premises immediately opposite or adjoining the site of such building, to be not less in any case than *ten feet*.

If the height of such building be *fifteen feet* he shall cause such distance to be *fifteen feet* at the least.

If the height of such building be *twenty-five feet* he shall cause such distance to be *twenty feet* at the least. If the height of such building be *thirty-five feet* or exceed *thirty-five feet* he shall cause such distance to be *twenty-five feet* at the least.

A person who shall make any alteration in or addition to such building shall not, by such alteration or addition, diminish

the aggregate extent of open space provided in pursuance of this byelaw in connection with such building, or in any other respect fail to comply with any provision of this byelaw.

For the purposes of this byelaw the height of such building shall be measured upwards from the level of the ground over which such open space shall extend to the level of half the vertical height of the roof or to the top of the parapet, whichever may be the higher.

Open space in rear of buildings.—The provision of proper means of "through ventilation" for "domestic buildings" (see definition, *ante*, p. 87) has already been described as all important from a sanitary point of view, and it has been pointed out that to secure this it is essential that there should be a sufficiency of open space both in front and in rear of each building. Under certain circumstances, the Local Government Board's "alternative clauses" (see the proviso on p. 156), permit the open space to be in the front and on the two sides of the building; but the circumstances which are held to justify this arrangement are so far exceptional as to render it unnecessary to discuss the alternative in connection with any general consideration of the requirements of clause 54. The specific object of the byelaw is to secure the free circulation of air about buildings, without which healthy conditions of life are unattainable. For this purpose the space provided should, as shown in Figs. 27—30, Appendix, extend laterally throughout the entire width of the building at the point of its greatest depth from front to rear, so as to prevent a block of buildings being erected in such a manner that the space in rear becomes a mere well. In addition to this, however, the space should be sufficient to permit of the privy (if any) and an ashpit being placed at a sufficient distance from the building for purposes of health, and the provisions of clauses 73 and 80 on this point must not be overlooked. The model byelaw (No. 54) prescribes very moderate requirements in all respects, and there can be no doubt that the principles upon which it is based are thoroughly sound and satisfactory. If the circumstances of the district, or any part of it, are exceptional, the Local Government Board will doubtless be willing to co-operate with the local authority in framing such clauses as will deal with any difficulties to which the exceptional conditions give rise; but the greater number of such cases can be met by the adoption of one or more of the alternative or additional clauses to be dealt with later; and the local authority will, as a general rule, be well-advised, if circumstances admit, in rather increasing than diminishing the stringency of the clause, as by requiring the open space to have a minimum distance across it of, say, *fifteen feet*. This may be effected by substituting "fifteen" for "ten" in the second paragraph and omitting paragraph 3. The distances in clauses 73 and 83 might then be increased to, say, *ten* or *eleven feet*.

Measurement across open space.—Attention may be drawn to the fact that while the height of the main building, ascertained in manner described in the last paragraph of the byelaw, determines the distance across open space, the distance should be measured from the rear-most wall, whether of a "back addition" or otherwise. (See Plate XII., Figs. 27 to 30, Appendix.)

Back streets not generally to be included in the open space.—The desirability of encouraging the construction of back streets scarcely requires argument. There is, however, some tendency to consider this an equivalent,

in part at least, for open space "exclusively belonging" to buildings. It is necessary, therefore, to state that the Local Government Board are understood to discountenance any such view. A certain amount of open space exclusively belonging to each building is necessary for outdoor waterclosets, ashpits, etc. In addition to this, it should not be overlooked that these streets are comparatively difficult to keep clean. If, in any case, the local authority should feel that the provision of such secondary means of access could not be enforced without some concession in the direction indicated, they should at least prescribe that a space, exclusively belonging to the building, and not less than *ten feet* across, shall be provided in rear of each domestic building. *One-half* the width of the back street might then, perhaps, be permitted to be reckoned as part of any additional space which is required where the building exceeds *fifteen feet* in height. Without an express proviso, however, the fence wall separating the backyard from the street would be an obstacle to the inclusion of any part of the width of the street in the open space.

Where a local board made a byelaw that every building to be erected and used as a dwelling shall have an open space exclusively belonging thereto to the extent of at least five hundred square feet, free from any erection thereon above the level of the ground, the Court ruled that the byelaw was valid, and that a small wooden fence, three feet six inches high, erected around the house was properly held to be an erection within the meaning of the byelaw (*Adams* v. *Bromley Local Board* (1873), 37 J. P. 662).

The "open space" must "exclusively belong" to the building. A highway, for example, may not be considered as part of the open space. Thus a byelaw of a local board provided :—"Every person erecting a new building to be used as a dwelling-house shall provide in the rear thereof an open space exclusively belonging thereto, to the extent, at least, of one hundred and fifty square feet, free from any erection thereon above the level of the ground. And he shall cause the distance across such open space between every such building and the opposite property at the rear to be ten feet at least. If such building be fifteen feet in height above the level of such open space he shall cause the distance across to be at least fifteen feet. If such building be twenty-five feet in height he shall cause such distance across to be at least twenty feet." It appeared that the defendant had erected a new building to be used as a dwelling-house, twenty-five feet in height; that there was in the rear of the building an open space exclusively belonging thereto to the extent of seven hundred square feet; that the distance across such open space between such building and the boundary of the opposite property at the rear thereof, including the width of the street which divided the building from the opposite property was fifty-two feet; and that the land exclusively belonging to such building was bounded in the rear by a public street, and that the distance across the open space between the building and the public street was eight feet. It was held by a divisional court that on the true construction of the byelaw, the public street was the "opposite property," and that as the defendant had not caused the distance across the open space between his building and the opposite property to be at least twenty feet, he had committed a breach of the byelaw (*Jones* v. *Parry* (1888), 52 J. P. 69 ; 57 L. T. 492).

Buildings other than waterclosets, etc. prohibited on open space.—If any building other than a watercloset, earthcloset, or privy, and an ashpit, (*e.g.*, a washhouse or coal-house), is to be allowed to be erected upon the open space prescribed by this byelaw, the extent of the open space should be increased to, say, *two hundred square feet*, and it would be well to limit the height and cubical content of the additional building.

Provisions as to open space about buildings in London.—The provisions relating to open spaces about buildings, which are in force in London (see Part V. of the London Building Act, 1894), differ considerably in method from those of the model clauses. Section 41 (1) (ii.) of the London Act, however, recognises the principle that there should be in rear of every domestic building an open space exclusively belonging to such building and of an aggregate extent of not less than one hundred and fifty square feet, and that such open space should extend throughout the entire width of such building and to a depth in every part of at least ten feet from the building.

Encroachment on open space.—The alteration suggested in the second paragraph of clause 53 (see note, p. 149), might also be made in the fifth paragraph of the present clause. With regard to encroachments upon open space in connection with existing buildings, see the Bristol clause referred to in the same note.

Back-to-back houses.—It follows from what has already been stated that clause 54 is prohibitory of the erection of houses back-to-back. Such a mode of construction, indeed, is open to the gravest objection, not only because, with houses so erected, "through" ventilation is impossible, but on other grounds as well. The subject is exhaustively dealt with in a joint Report made to the Local Government Board, in 1888, by Dr. Barry and Mr. P. Gordon Smith, F.R.I.B.A.; and, as meeting with a decided negative some of the points still occasionally urged in favour of back-to-back houses, it may be stated that, among the general results of this inquiry, Dr. Barry and Mr. Gordon Smith submitted the following propositions, viz., (*a*) that the accommodation afforded in through houses was usually superior to that afforded in back-to-back houses of similar extent; and (*b*) that the difference in the cost of construction of a through house and of a back-to-back house respectively, each affording the same accommodation, and built equally well, was very slight indeed.

Special provision as to stables, etc.—Clause 54 as printed would prohibit the erection of stables and other "domestic buildings"* which are not "dwelling-houses,"* without the provision of open space in rear "exclusively belonging" thereto. Where, however, any such building is "appurtenant to a dwelling-house," and abuts on an open space in rear of the dwelling-house which is sufficient to comply with the requirements of the byelaw, the adoption of the following provisoes—as to which see Diagram, Plate XIII., Fig. 31, Appendix—has been approved by the Local Government Board.

Provisoes as to stables and other domestic buildings not being dwelling-houses.

Provided always, that this byelaw shall not apply so as to require any open space to be provided in the rear of any domestic building other than a dwelling-house where such building is appurtenant to a dwelling-house, and is not of a greater height than such dwelling-house, and abuts on the open space provided in the rear of such dwelling-house, and where the open space so provided is sufficient to comply with the requirements of this byelaw.

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* See the definitions in clause 1.

Provided further, that in any case where such building is of a greater height than the dwelling-house to which it is appurtenant, the foregoing exemption shall apply, if the open space left in the rear of such dwelling-house would be sufficient to comply with the requirements of this byelaw were the dwelling-house of a height equal to the height of the other building.

Several cases of a less simple character than is met by these two provisoes, are dealt with in certain other provisoes which will now be considered.

Proviso for sites abutting on two or more streets.

Provided that in any case where the site of a new domestic building may abut on two or more streets, and by reason of the form or dimensions of the site of the new domestic building, it may be impracticable to provide in the rear of such building such an extent of open space as will satisfy the preceding requirements of this byelaw, the following requirements shall apply in lieu thereof:—

He shall construct such building so that there shall be on the side or sides, other than the front of such building, which so adjoin streets an open space having a distance across from every part of such building to the opposite side of the street or streets immediately adjoining such site of not less than *ten feet*, which shall be free from any erection thereon above the level of the ground (except any portico, porch, step, or other like projection from such building, or any gate, fence or wall not exceeding *seven feet* in height), and which shall extend laterally thoughout the entire length of such side or sides of such building. He shall provide on one side of the site, other than the front of such building, an open space which shall exclusively belong to such building, which shall be free from any erection thereon above the level of the ground, except a watercloset or earthcloset, and an ashpit, which shall extend laterally throughout at least *ten feet* of such side of the site of such building, and across which the distance from the opposite part of such building to the side of the site which abuts on any lands or premises immediately opposite or on any street immediately adjoining such site, but not being one of the two streets hereinbefore referred to, shall be not less in any case than *ten feet*, and shall be connected with one of the streets on which such building abuts by means of a passage or other similar opening so arranged as to be capable at all

times of affording a free circulation of air between the open space and such street aforesaid.

He shall cause the aggregate extent of open space which shall, in pursuance of the preceding requirements, be provided or left on two or more sides other than the front of such building, to be not less in any case than *two hundred and fifty square feet.*

Proviso for sites abutting on two or more streets.—Copies of this proviso can be obtained on application to the Local Government Board. It prescribes a method of utilising building sites abutting on two or more streets, where it may be impracticable to provide in the rear of each building such an extent of open space exclusively belonging to such building as will satisfy the requirements of clause 54. The clause is of great value in connection with the utilisation of sites at and near to the junction of two streets at an acute angle. (See Diagram, Plate XIII., Fig. 32, Appendix.) In such cases, the through ventilation of the buildings is secured by their window and other openings to the two streets, and in most cases practically all that is required is to enforce the provision of a sufficient space exclusively belonging to each building on which to place a watercloset or earthcloset, and an ashpit. Here, as shown by the diagram, the front of the building is assumed to be to one of the streets forming the legs of the angle, and the open space on that side is governed by the provisions of clause 53. If the width of the other street amounts to, or exceeds, ten feet, the whole area of the site may be covered by the building, except a space ten feet square for the erection of the watercloset or earthcloset, and ashpit. If, however, the second street were a narrow court of, say, five feet in width, the wall of the building on that side would have to be thrown back five feet, besides leaving a space of ten feet by ten feet for yard purposes.

The ventilation of the yard space of ten feet by ten feet is important, and is secured by the passage or other similar opening referred to in the proviso. Attention should also be directed to the last paragraph of the proviso. It will be noticed that the clause does not permit of a privy being placed on the open space of ten feet by ten feet.

Open space in connection with buildings on shallow sites.—The third of the alternative or additional clauses prepared by the Local Government Board in connection with clause 54, is designed to meet a class of cases which, where proper byelaws are in force, could only arise under very exceptional circumstances, for it presupposes that land has been laid out for building in plots too shallow to admit of the provision of a proper extent of open space in the rear, as well as in front of the buildings to be erected thereon. Here, through ventilation is secured by requiring an open space, varying in extent according to the height of the building, to be provided on each of the two sides of the building, instead of in the rear.

It will be noticed that this proviso does not permit of the erection of a privy on the open space, but only of a watercloset or earthcloset (besides an ashpit). The Diagram, Plate XIV., Figs. 33 and 34, Appendix, will further explain the requirements of the clause.

Proviso for shallow sites.

Provided that in any case where the depth of the site of a new domestic building renders it impracticable to provide in

the rear of such building such an extent of open space as will satisfy the preceding requirements of this byelaw, the following requirements shall apply in lieu thereof:—

He shall provide on each of two sides, not being either the front or the rear of such building, an open space, exclusively belonging to such building, free from any erection thereon above the level of the ground (except a watercloset or earthcloset and an ashpit), and extending laterally throughout the entire depth of such building, and communicating directly with any open space that may be provided in the front or in the rear of such building. The distance across such open space from every part of such building, to the boundary of any lands or premises in the same curtilage, being not less in any case than *eight feet*.

If the height of such building be *fifteen feet* he shall cause the distance across to be not less than *twelve feet*.

If the height of such building be *twenty-five feet* he shall cause such distance to be not less than *sixteen feet*.

If the height of such building be *thirty-five feet* or exceed *thirty-five feet*, he shall cause such distance to be not less than *twenty feet*.

Proviso for re-erections on corner sites

Provided that in any case where a domestic building may be re-erected on a site, two adjoining sides of which abut on streets, and where by reason of the form, dimensions, or intended mode of use of such site, or of its position in relation to an adjoining site or sites, it may be impracticable to provide in the rear of such building such an extent of open space as will satisfy the preceding requirements of this bye-law, every person who shall re-erect any such building on such site shall, as regards the provision of open space in connection therewith, comply with such of the following requirements as may be applicable to the circumstances of the case instead of complying with the said preceding requirements; but this proviso shall not apply in any case where the open space to be provided in connection with a building shall not be connected with one of the streets on which such building abuts by means of a passage or other similar opening so arranged as to be capable at all times of affording a free circulation of air between the open space and such street aforesaid—

(i.) Where there shall have been an amount of open space exceeding *one hundred square feet* in the rear of the

building that may have previously occupied the site, the person re-erecting such building shall provide in the rear of the new domestic building an open space which shall be not less in depth or extent than the open space that shall have been provided in connection with the first-mentioned building, and shall exclusively belong to such building, and be free from any erection above the level of the ground, except a watercloset, or earthcloset, and an ashpit.

(ii.) Where there shall not have been an amount of open space exceeding *one hundred square feet* in the rear of the building that may have previously occupied the site, the person re-erecting such building shall provide in the rear of the new domestic building an open space which shall be not less in extent than *one hundred square feet*, and shall be free from any erection thereon above the level of the ground, except a watercloset or earthcloset, and an ashpit, and shall extend laterally throughout at least *ten feet* of the entire width or depth of such building, and across which the distance from every part of such building to the nearest boundary of any lands or premises immediately adjoining such site shall be not less in any case than *ten feet*.

(iii.) In either of the foregoing cases every person who erects a new domestic building shall provide on that side of such building which adjoins the front and abuts on any street, an open space of an aggregate extent of not less than *one hundred and fifty square feet*, which shall be free from any erection thereon above the level of the ground, except any portico, porch, step, or other like projection from such building, or any gate, fence, or wall, not exceeding *seven feet* in height. He shall cause such open space to extend laterally throughout the entire width or depth of such building, and to have a distance across from every part of such building to the opposite side of the street immediately adjoining such site of not less in any case than *ten feet*.

Proviso for sites where two streets meet at right angles.—The principle of this proviso is similar to that printed at p. 155. One of the streets provides wholly or partially an open space not less in extent than one hundred and fifty square feet; and an additional space, exclusively belonging to the building and not less than ten feet square, must be provided on which to erect the

watercloset or earthcloset, and an ashpit. This latter space must be ventilated by means of a passage or other similar opening to one of the streets. (See Plate XV., Fig. 35, Appendix.) The clause applies only to the *re-erection* of buildings, and paragraph (i.) preserves whatever open space exceeding one hundred square feet may have exclusively belonged to the building previously occupying the site. The erection of a privy on the very limited space secured exclusively to the building is, in this case, in effect prohibited.

Proviso for sites tapering to the rear.

Provided always, that in any case where the site of a building may be of such a shape that the width thereof diminishes towards the rear, and it is therefore impossible to provide an open space extending laterally throughout the entire width of such building, and having the required distance across such space, the person who shall erect such building shall provide in the rear thereof an open space, the extent of which is to be determined in accordance with the provisions of this byelaw, subject to the following exceptions :—

(i.) He shall cause the distance across such space to be measured from the rearmost wall of such building to a line at which the lateral width of the open space shall not be less than one half of the width of such space at such rearmost wall.

(ii.) He shall provide on the side of such line remote from the building a further open space exclusively belonging to such building of a superficial area equal to one-third of the area of the space herein-before required to be provided.

(iii.) This proviso shall not apply in the case of any building which would form one of a series of buildings continued in an unbroken line whether in the form of a square or in any other form and completely enclosing a space in the rear of such buildings.

Open space on sites tapering to the rear.—This clause provides as to the open space in connection with buildings on sites which taper towards the rear. Incidentally it throws light on the expression "entire width of such building," as used in clause 54, and in the foregoing provisoes to that clause ; for it seems to show that the widest part of the building, whatever that may be, is meant. The operation of the clause will be best explained by reference to the diagrams (Plate XV., Fig. 36, Appendix), in which *a b* is the line of the rearmost wall, and *c d* the line required to be ascertained by paragraph (i.). The notes appended to the diagrams show that the open space is sufficient to satisfy the requirements of the clause. Paragraph (iii.) is necessary in order to prevent abuse of the clause, by the erection of a block of buildings entirely surrounding a central space.

Windows to be provided.

55. Every person who shall erect a new domestic building shall construct in the wall of each storey of such building which shall immediately front or abut on such open spaces as, in pursuance of the byelaws in that behalf, shall be provided in connection with such building, a sufficient number of suitable windows, in such a manner and in such a position that each of such windows shall afford effectual means of ventilation by direct communication with the external air.

Windows.—There is no provision in s. 157 of the Public Health Act, 1875, specifically relating to windows. The present clause, however, is framed as a byelaw "with respect to the ventilation of buildings," and is therefore supported by sub-s. (3) of that section. It is designed to secure "through ventilation" by means of "a sufficient number of suitable windows" in the front and rear walls of each storey, opening directly upon the open spaces provided under clauses 53 and 54. More specific provisions as to the window-space of habitable rooms will be found in clause 57.

Places under local Acts.—Sections 110 to 115 of the Towns Improvement Clauses Act, 1847 (10 & 11 Vict. c. 34), contain provisions relating to the ventilation of buildings, but as these sections are not incorporated in the Public Health Act, 1875, they will not apply to any place, unless they are incorporated in a local Act.

Ventilation under floor of lowest storey.

56. Every person who shall erect a new domestic building shall so construct every room which shall be situated in the lowest storey of such building, and shall be provided with a boarded floor, that there shall be, for the purpose of ventilation, between the under side of every joist on which such floor may be laid, and the upper surface of the asphalte or concrete with which, in pursuance of the byelaw in that behalf, the ground surface or site of such building may be covered, a clear space of *three inches* at the least in every part, and he shall cause such space to be thoroughly ventilated by means of suitable and sufficient air-bricks, or by some other effectual method.

Ventilation under floor of lowest storey where requirement as to concreting of site not absolute.

56*. Every person who shall erect a new domestic building shall so construct every room which shall be situated in the lowest storey of such building, and shall be provided with a boarded floor, that there shall be, for the purpose of ventilation, between the under side of every joist on which such floor may be laid, and the upper surface of the ground or of the asphalte or concrete with which, in pursuance of the byelaw in that behalf, the ground surface or site of such building may be covered, a clear space of *three inches* at the least in every part, if such ground surface or site be covered with asphalte or

concrete, and of *nine inches* at the least in every part if such ground surface or site be not so covered, and he shall cause such space to be thoroughly ventilated by means of suitable and sufficient air-bricks, or by some other effectual method.

Ventilating space under floor.—The model byelaws contemplate that, except under specially favourable conditions, which may be provided for in the manner indicated on p. 108, the site of every new building will be covered with a layer of asphalte, or of concrete rammed solid (clause 10). The present clause (56) requires that the lowest boarded floor shall be so constructed as to leave a clear space of at least three inches between the upper surface of the asphalte or concrete layer and the under side of the joists. (See Plate XV., Fig. 37, Appendix.) The clause further provides (with a view to the ventilation of the lower part of the house, and the prevention of dry-rot amongst the timbers of the floor) for the constant admission of fresh air into the space referred to by means of air-bricks, etc. If, however, the layer of asphalte or concrete is omitted, a space of three inches will not be sufficient for the objects to be kept in view. Where, therefore, clause 10 is modified so as to apply only to damp sites and very porous soils, the district council should strike out clause 56, and substitute that numbered 56*, copies of which may be obtained on application to the Local Government Board.

Windows of habitable rooms.

57. Every person who shall erect a new building shall construct in every habitable room of such building one window, at the least, opening directly into the external air, and he shall cause the total area of such window, or, if there be more than one, of the several windows, clear of the sash frames, to be equal at the least to *one tenth* of the floor area of such room.

Such person shall also construct every such window so that *one half*, at the least, may be opened, and so that the opening may extend in every case to the top of the window.

Windows of habitable rooms.—Like clause 55, this byelaw is so framed as to bring it within the scope of s. 157 (3) of the Public Health Act, 1875; but it also secures the proper lighting of the interior of buildings. The windows must open directly into the external air; they must in the aggregate be of the prescribed minimum size, and each must be so constructed that one-half at least will open, and that the opening may extend to the top of the window. The last-mentioned requirement appears to be applicable to any sort of window, although the contrary is sometimes urged. In the case of windows with transomes, for example, the byelaw could be complied with by making the parts above the transomes swing on pivots or hinges. The byelaw may be compared with s. 70 (*c*) of the London Building Act, 1894.

Height of rooms intended for human habitation.—The section last-mentioned prescribes minimum heights for habitable rooms. There is no power to make a byelaw on this subject under s. 157 of the Public Health Act, 1875. Where, however, Part III. of the Public Health Acts Amendment

Act, 1890 (53 & 54 Vict. c. 59), has been adopted by either an urban or a rural district council (see ss. 3 and 50 of the Act), or the provisions of s. 23 (1) have been put in force under s. 5 of the Act, the district council will be empowered to make such a byelaw. It might be inserted under an appropriate heading immediately after clause 59 of this series. (For a form of byelaw, see Model Byelaws, vol. ii.

Ventilation of habitable rooms without fireplaces.

58. Every person who shall erect a new domestic building shall cause every habitable room of such building which is without a fireplace, and a flue properly constructed and properly connected with such fireplace, to be provided with special and adequate means of ventilation by a sufficient aperture or air shaft which shall provide an unobstructed sectional area of *one hundred square inches* at the least.

Ventilation of habitable rooms.—In rooms provided with a fireplace, the chimney acts as a very efficient ventilating shaft. There is, however, no power to enforce the provision of a fireplace, etc., to every habitable room, and hence, in the interests of health, it becomes necessary to prescribe other means of ventilation for such rooms as may not have fireplaces. Clause 58, therefore, requires that, where there is no fireplace, an aperture or air shaft shall be formed not less than one hundred square inches (ten inches by ten inches) in sectional area. The ordinary dimensions of a chimney flue are not less than *fourteen inches by nine inches.* (See s. 6 of the Chimney Sweepers Act, 1840 (3 & 4 Vict. c. 85).)

Ventilation of public buildings.

59. Every person who shall erect a new public building shall cause such building to be provided with adequate means of ventilation.

Ventilation of public buildings.—The ventilation of a "public building" (see definition, *ante*, p. 87), depends so much upon circumstances, that it is undesirable to make a byelaw on the subject, the terms of which would be more specific than clause 59. As pointed out elsewhere in regard to some other matters, a general form of byelaw has the merit of giving the district council a practically free hand as to the arrangements which are to be deemed "adequate."

Places under local Acts.—This clause must be omitted if, by incorporation with any local Act, ss. 110—112 of the Towns Improvement Clauses Act, 1847, are in force in the district of the local authority.

Byelaw as to height of rooms.—See note, p. 161.

Byelaws as to the paving of yards, etc.—Where the local authority have power, under s. 23 (1) of the Public Health Acts Amendment Act, 1890, to make byelaws as to the paving of yards and open spaces in connection with dwelling-houses, such byelaws may be inserted, under a separate heading,

between clauses 59 and 60 of this series. (For approved forms of byelaws, see Model Byelaws, vol. ii.)

With respect to the drainage of buildings.

60. Every person who shall erect a new building shall cause the subsoil of the site of such building to be effectually drained by means of suitable earthenware field pipes, properly laid to a suitable outfall, whenever the dampness of the site renders such a precaution necessary. Subsoil drainage.

He shall not lay any such pipe in such a manner or in such a position as to communicate directly with any sewer or cesspool, or with any drain constructed or adapted to be used for conveying sewage, but shall provide a suitable trap, with a ventilating opening, at a point in the line of the subsoil drain as near as may be practicable to such trap.

Definitions.—The expressions "drain" and "sewer," as used in the byelaws, have the same meaning as in s. 4 of the Public Health Act, 1875.

Drainage of subsoil.—In connection with clause 60, reference may be made to clause 10 and the note thereon. The concreting of the sites of buildings, which is required by that clause, is intended to prevent ground air and moisture rising from the subsoil into the interior of the buildings. The clause in question only applies to "domestic buildings" (see definition, *ante*, p. 87). Clause 60, however, aims at getting rid of subsoil water from the site of any new building by means of a porous drain properly laid to a suitable outfall. A drain of this kind should, if practicable, discharge in the open air without any communication with a sewer, cesspool, or sewage drain. Communication with a cesspool is especially objectionable, as when the cesspool is full the sewage may back up the drain, and saturate the subsoil. Assuming, however, that it is necessary that the subsoil drain should discharge into any drain or receptacle for sewage, the disconnecting trap and ventilating opening, required by paragraph 2 of the present clause, are indispensable as a precaution against the passage of foul air into the subsoil beneath the building.

The maintenance of a water seal in the trap in dry weather is a matter requiring attention; but this would probably be regarded as outside the scope of the byelaws.

Scope of the model byelaws with respect to the drainage of buildings.—The power to make byelaws as to the drainage of buildings, which is conferred by s. 157 of the Public Health Act, 1875, is not expressly limited to new buildings, and the inference from the proviso to that section would seem to be that the power was intended to be applicable as regards any building erected after the times mentioned in the proviso. The inference is strengthened by s. 23 (2) of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), which provides that any byelaw made under s. 157 with regard to the drainage of buildings "may be made so as to affect buildings erected

before the times mentioned in the said section." The model clauses on the subject of drainage, however, are all drawn so as to apply only to persons erecting *new* buildings. Hence, if it is proposed, under s. 157 of the Act of 1875, as extended by s. 23 (2) of the Public Health Acts Amendment Act, 1890, to make byelaws with respect to drainage applicable to existing buildings, a separate series on the subject should be submitted (in the first instance in draft) for the approval of the Local Government Board.

Communication of drains with sewers.—Byelaws under s. 157 of the Public Health Act, 1875, cannot properly regulate the manner in which communications are to be made between house drains and the sewers. The matter should be dealt with by means of regulations under s. 21 of the Act. Such regulations do not require the approval or confirmation of the Local Government Board. (See Public Health Act, 1875, s. 188.)

Duplicate drains.—In certain districts byelaws made under s. 157 (4) of the Public Health Act, 1875, are in force, requiring a duplicate system of house drainage,—one set of drains for sewage only, and one for surface water only, to be provided. There are serious practical difficulties, however, which militate against the usefulness of such clauses, even where the adoption of a duplicate system of *sewers* makes the requirement reasonable.

Down pipes for roof drainage.

60a. Every person who shall erect a new building shall cause a suitable pipe or trunk, extending from the roof of such building to the ground, to be fixed to the front or rear or to one of the sides of such building, and to be so connected with a gutter, shoot, or trough receiving any water that may fall on the roof, as to carry all such water therefrom without causing dampness in any part of any wall or foundation of such building.

Roof drainage.—This byelaw has an important bearing in connection with the prevention of dampness in walls and foundations, the effects of which upon health are referred to (*ante*), in a note on clause 10.

It will be noticed that the present clause (copies of which can be obtained on application to the Local Government Board) does not refer to the mode of discharge of the down-pipe at its lower end. The pipe might be required to discharge over a channel leading to a trapped gully, where the rainwater is to be conveyed into the sewage drains; but where the water is collected for use, a gully would be a disadvantage rather than otherwise, as there would be nothing to prevent slop-water and other foul liquids being thrown down the opening. Where, therefore, the down-pipe communicates directly with a drain not used, or intended or adapted to be used, for conveying sewage, no open gully should be required. The down-pipe should be so fixed as to leave a clear space of an inch or two between the pipe and the wall. The material of which the pipe is constructed will usually be cast iron. The note on clause 52A (*ante*), should be referred to.

Level of lowest storey

61. Every person who shall erect a new building shall construct the lowest storey of such building at such level as

will allow of the construction of a drain sufficient for the effectual draining of such building, and of the provision of the requisite communication with any sewer into which such drain may lawfully empty, at a point in the upper half diameter of such sewer, or with any other means of drainage with which such drain may lawfully communicate. in relation to drainage.

Level of lowest storeys of buildings.—The object of this clause, which has relation only to the effectual drainage of buildings, is to prevent the construction of cellar and basement storeys in such a way that the house drains cannot have a proper fall towards, and a proper communication with, the sewer or other means of drainage into which the sewage is to be conveyed. Its effect is to prevent the construction of cellars, etc., where these conditions cannot be fulfilled, and the provision is one of very great importance on sanitary grounds. As to the elevation of lowlying and excavated sites, see clauses 10A and 10B, on pp. 108, 109.

Building over sewers and drains.—Section 26 of the Public Health Act, 1875, provides that "any person who in any urban district, without the written consent of the urban authority, causes any building to be newly erected over any sewer of the urban authority . . . shall forfeit to the urban authority the sum of five pounds and a further sum of forty shillings for every day during which the offence is continued after written notice in this behalf from the urban authority ; and the urban authority may cause any building vault arch or cellar erected or constructed in contravention of this section to be altered pulled down or otherwise dealt with as they may think fit, and may recover in a summary manner any expenses incurred by them in doing so from the offender."

Building over drains can scarcely be prevented by means of byelaws unless the prohibition is limited to particular cases. A general prohibition would be unreasonable as applied, *e.g.*, to the re-erection of buildings where there are existing drains beneath them.

62. Every person who shall erect a new building shall, in the construction of every drain of such building, other than a drain constructed in pursuance of the byelaw in that behalf for the drainage of the subsoil of the site of such building, use good sound pipes formed of glazed stoneware, or of other equally suitable material. Construction of drains.

He shall cause every such drain to be of adequate size, and, if constructed or adapted to be used for conveying sewage, to have an internal diameter not less than *four inches*, and to be laid in a bed of good concrete, with a proper fall, and with watertight, socketed, or other suitable joints.

He shall not construct any such drain so as to pass under any building, except in any case where any other mode of construction may be impracticable, and in that case he shall cause such drain to be so laid in the ground that there shall be

a distance equal at the least to the full diameter thereof between the top of such drain at its highest point and the surface of the ground under such building.

He shall also cause such drain to be laid in a direct line for the whole distance beneath such building, and to be completely embedded in and covered with good and solid concrete, at least *six inches* thick, all round.

He shall likewise cause adequate means of ventilation to be provided in connection with such drain at each end of such portion thereof as is beneath such building.

He shall cause every inlet to any drain, not being an inlet provided in pursuance of the byelaw in that behalf as an opening for the ventilation of such drain, to be properly trapped.

Construction of drains.—The first, second, and sixth paragraphs of this clause apply to any drain of a building other than a subsoil drain. The third, fourth, and fifth paragraphs only apply where a drain, not being a subsoil drain, passes under any building. The construction of subsoil drains is regulated by clause 60. As regards the *material* of which ordinary house drains are to be constructed, clause 62 prescribes either good stoneware or any other "equally suitable material." This admits of the use of heavy cast iron pipes jointed with lead, not to mention other less common materials. The *size* of drains is dealt with in the second paragraph. The actual diameter must, of course, depend to a great extent upon circumstances ; but every drain should be, as far as possible, self-cleansing, and for ordinary purposes four-inch drains are in many respects superior to those of larger diameter, because of the greater scouring effect of the flow of water through the smaller drain. For all ordinary purposes, therefore, the use of four-inch drain pipes should be encouraged. The requirement as to bedding the drain in *concrete* should not be regarded as unnecessary even where the soil consists of a stiff clay, and in looser soils it is absolutely necessary as a precaution against settlement, and the consequent disturbance of the joints. The proper *fall* for the drain depends to a great extent upon its diameter, 1 in 30 or 1 in 40 would be a fair fall ; 1 in 50 would not be too great for a house drain. It is not desirable, however, to specify in the byelaws a minimum fall for drains, as in some exceptional cases an ordinary fall such as 1 in 40 might not be obtainable. To fix, say, "1 in 40" as a minimum, therefore, might unduly hamper building operations.

The *joints* of a stoneware drain may be made in cement, but any other suitable joints are permitted (*e.g.*, hemp and cement or good composition). Lead joints are required in the case of iron drains.

"Portland cement, if carefully applied, makes an excellent and lasting joint ; but care needs to be taken to ensure that any cement that squeezes out of the joint into the interior of the pipe is entirely wiped off, or it will 'set' and leave ridges inside that will form so many obstructions to the flow of water, and lodging places for solid matters carried down with the sewage. It is needful also to be certain that the cement is properly applied all round the joint . . . Another kind of joint which has been much used of late years, is made by casting on to the spigot and socket of each pipe a ring of specially prepared patent material, the two rings being fixed *in situ*

with a composition of Russian tallow and resin . . . It is, however, desirable to . . . add a ring of cement outside the patent joint."* Too much attention cannot be paid to the jointing of drain pipes. In the hands of negligent workmen these joints have been a fruitful, if indirect, cause of injury to health.

The last paragraph of the model clause requires every inlet, other than an inlet for ventilation provided in pursuance of clause 65, to be "properly trapped." The essential features of a "proper" trap may be said to be that it shall be self-cleansing, and capable, if properly ventilated, of maintaining a sufficient water-seal, due allowance being made for evaporation, syphonage, etc. It should not be larger than is consistent with a complete change of its contents at every flush, and in no case should the sectional area of the water-way through the trap be greater than that of the drain with which it communicates. The use of the old-fashioned "mason's trap" or "dip-trap," and of the "bell" and other objectionable forms of trap (see Diagram, Plate XVIII., Fig. 44, Appendix), which become unsealed on the removal of the cover, is, in effect, prohibited by the byelaw. "'D' traps" in connection with waterclosets are expressly forbidden by clause 69.

In the case of *drains passing unavoidably beneath a building*, the requirement as to embedding the drains in concrete should on no account be omitted except in the case of iron pipes. It is equally important that drains should be laid beneath buildings in direct lines, and where possible (although the clause does not require this) with suitable means of access for purposes of inspection (as well as adequate means of ventilation) at each end of the portion beneath the building. Where the drain passes through a wall a stone lintel or relieving-arch is desirable as a protection against settlement. The byelaws, however, do not require this. It may be assumed to be unnecessary to lay a drain under any detached, or semi-detached, house if proper arrangements are adopted. Where the use of iron drains beneath buildings is contemplated, some modification should be made in this clause so as to prescribe the mode of construction, which will be somewhat different from that laid down for stoneware drains. The requirement as to completely embedding the drain in, and covering it with, concrete, would not be necessary in the case of iron pipes, which should be either laid on a bed of good concrete or be carried on pipes or supports of iron, brick, stone or concrete so disposed as to give a bearing to the pipes at each joint.

Drains to be trapped.

63. Every person who shall erect a new building shall provide, within the curtilage thereof, in every main drain or other drain of such building which may directly communicate with any sewer or other means of drainage into which such drain may lawfully empty, a suitable trap at a point as distant as may be practicable from such building and as near as may be practicable to the point at which such drain may be connected with such sewer or other means of drainage.

Curtilage.—Curtilage is described as a "little garden, yard, field, or piece of void ground lying near and belonging to the messuage, a little croft, or

* "The Dwelling." By Messrs. P. Gordon-Smith, and Keith D. Young, in Stevenson and Murphy's "Treatise on Hygiene and Public Health."

court, or place of easement, to put cattle in for a time, or to lay in wood, coal, or timber, or such other things necessary for the household." (See *per* MATHEW, J., quoting from Stroud's Judicial Dictionary, in *Pilbrow* v. *Vestry of St. Leonard, Shoreditch*, [1895] 1 Q. B., at p. 37.) The learned judge also referred to the description of "curtilage" given in Jacobs' Law Dictionary, which is "a court-yard, back side, or piece of ground lying near and belonging to a dwelling-house." In *Pilbrow* v. *St. Leonard, Shoreditch* (*ubi supra*), which was a case under the Metropolis Management Acts, the point was, whether a drain which received the sewage from two blocks of buildings, having between them a causeway, which was a paved yard used for the purposes of both blocks, and having in it a dustbin common to the occupiers of both blocks, was "used for the drainage of premises within the same curtilage" by reason of the yard being within the curtilage of both buildings, the Queen's Bench Division holding that it was, and that the yard was within the curtilage of both blocks. This judgment was upheld by the Court of Appeal, consisting of Lord ESHER, M.R., and LOPES, L.J. (RIGBY, L.J., *diss.*), [1895] 1 Q. B. 433; 59 J. P. 68.

In *Blundell* v. *Price* ("Local Government Chronicle," 28th May, 1898), six cottages belonging to the same owner were divided into two groups of three each by a passage which tenants of them were entitled to use. There was a door at the end of the passage to which each of the tenants had a key. There was also a passage along the front of the cottages and another at the back of the gardens belonging to them, and parallel with the one in the front. The first-mentioned passage connected the two last-mentioned, the three passages forming the letter H. The cottages were drained into two common drains which ran each way along the front passage, uniting at the junction of the cross passage, and were continued in one pipe down it and across the passage at the back of the gardens and into the public sewer, which was under a public street, running parallel to the last-mentioned passage, and separated from it by a board fence. This pipe was trapped between the point where the last drain joined it and its junction with the public sewer. The justices convicted the appellant for not providing a trap for each house above the point where the drain of that house joined the common pipe as required by the byelaw. It was held by the Queen's Bench Division that the houses were not within the same curtilage, and that the pipe along the dividing passage and the branch pipes in the front passage in so far as they received the drainage of two or more houses, fell within the definition of a "sewer." WILLS, J., in the course of his judgment, said that the passages marked on the plan were passages and nothing else, and that they did not satisfy the tests indicating what is a curtilage as conveyed by the language of MATHEW, J., in *Pilbrow* v. *St. Leonard, Shoreditch* (*ubi supra*), and of Lord ESHER, M.R., or LOPES, L.J., in the same case in the Court of Appeal.

The houses and shops within an arcade, known as the "Lowther Arcade," which is a passage arched over by a common roof with a range of houses and shops on either side, these houses and shops being approached by the passage aforesaid, and its use being essential to the enjoyment of each and every of the houses and shops, were held not to be within the same curtilage so as to bring a line of pipes which ran down the centre of the arcade, and received the drainage of the houses and shops, within the definition of a "drain" (*Vestry of St. Martin's-in-the-Fields* v. *Bird*, C. A., [1895] 1 Q. B. 428; 64 L. J. Q. B. 230; 71 L. T. (N.S.) 868; 43 W. R. 194).

Disconnection of house drains from sewers.—The proper disconnection of the house drains from the sewer, or from the cesspool, where this method of

drainage is adopted, is necessary to prevent foul air ascending through the drains into the building. The trap provided for this purpose must be self-cleansing. It should not be too large, or the standing water within it will not be changed with adequate frequency ; and above all things, it must have a sufficient dip to maintain its water seal against the evaporation induced by the current of air admitted through the ventilating opening.

Traps such as the "manhole" syphon trap should never be employed, its form of construction being so faulty that sewage collects in the bottom and central portion of the trap. There appears to be no actual necessity for the purposes of the byelaw for the disconnecting trap being provided "within the curtilage" of the building, and in the case of a building erected close up to the boundary of a street, this requirement could not be complied with. If, therefore, the omission of the words "within the curtilage thereof" were proposed by the district council it would probably be assented to by the Local Government Board. The trap could then be placed beneath the footpath, and clause 65 (i.) could be complied with so far as regards the first opening referred to in paragraph (*b*) of the clause, by carrying up a pipe or shaft (extraction pipe) against the front of the house ; or arrangement (*a*) might be followed by providing an air-inlet carried up in or through the front external wall to a foot or two above the footpath. By arrangement with the district council also, an inlet of suitable design might perhaps be formed in the surface of the footway, or, in the case of a kerbed footpath, in the face of the kerb. Where a manhole or inspection chamber is formed in connection with a disconnecting trap provided under clause 63, an air-inlet may be made by sufficient apertures in the manhole cover, or by a pipe or shaft communicating with the chamber through an opening in one of its sides. (See Diagram, Plate XVI., Fig. 38, Appendix.) The byelaw does not require the provision of a manhole or inspection chamber in connection with the trap, but any reasonable requirement in this direction would no doubt be assented to, as an addition to the clause, if proposed.

64. A person who shall erect a new building shall not construct the several drains of such building in such a manner as to form in such drains any right-angled junction, either vertical or horizontal. He shall cause every branch drain or tributary drain to join another drain obliquely in the direction of the flow of such drain. Junction of drains.

Right-angled junctions in drains prohibited.—No insistence should be necessary in order to ensure compliance with the requirements of this byelaw. Branch drains should not only enter another drain obliquely in the direction of the flow, but, in the case of a horizontal drain, the junction should be at the side. At every junction means of access to the drain for purposes of inspection should be provided. (See notes above, and on p. 167.)

65. Every person who shall erect a new building shall, for the purpose of securing efficient ventilation of the drains of such building, comply with the following requirements :— Ventilation of drains.

(i.) He shall provide at least two untrapped openings to the drains, and, in the provision of such openings, he Air inlet and outlet.

shall adopt such of the two arrangements herein-after specified as the circumstances of the case may render the more suitable and effectual.

(*a*.) One opening, being at or near the level of the surface of the ground adjoining such opening, shall communicate with the drains by means of a suitable pipe, shaft, or disconnecting chamber, and shall be situated as near as may be practicable to the trap which, in pursuance of the byelaw in that behalf, shall be provided between the main drain or other drain of the building, and the sewer or other means of drainage with which such drain may lawfully communicate. Such opening shall also in every case be situated on that side of the trap which is the nearer to the building.

The second opening shall be obtained by carrying up from a point in the drains, as far distant as may be practicable from the point at which the first-mentioned opening shall be situated, a pipe or shaft, vertically, to such a height and in such a manner as effectually to prevent any escape of foul air from such pipe or shaft into any building in the vicinity thereof, and in no case to a less height than *ten feet*.

(*b*.) In every case where the foregoing arrangement of the openings to the drains may be impracticable, there shall be substituted the arrangement herein-after prescribed.

One opening shall be obtained by carrying up from a point, as near as may be practicable to the trap, which, in pursuance of the byelaw in that behalf, shall be provided between the main drain or other drain of the building and the sewer or other means of drainage with which such drain may lawfully communicate, a pipe or shaft, vertically, to such a height and in such a manner as effectually to prevent any escape of foul air from such pipe or shaft into any building in the vicinity thereof, and in no case to a less height than

ten feet. Such opening shall also in every case be situated on that side of the trap which is the nearer to the building.

The second opening, being at a point in the drains as far distant as may be practicable from the point at which such last-mentioned pipe or shaft shall be carried up, shall be at or near the level of the surface of the ground adjoining such opening, and shall communicate with the drains by means of a suitable pipe or shaft.

Each opening to be covered with a grating.

(ii.) He shall cause every opening provided in accordance with either of the arrangements herein-before specified to be furnished with a suitable grating or other suitable cover for the purpose of preventing any obstruction in or injury to any pipe or drain by the introduction of any substance through any such opening. He shall, in every case, cause such grating or cover to be so constructed and fitted as to secure the free passage of air through such grating or cover by means of a sufficient number of apertures, of which the aggregate extent shall be not less than the sectional area of the pipe or drain to which such grating or cover may be fitted.

Sectional area of ventilating shafts.

(iii.) Every pipe or shaft which may be used in connection with either of the arrangements herein-before specified shall be of a sectional area not less than that of the drain with which such pipe or shaft may communicate, and not less in any case than the sectional area of a pipe or shaft of the diameter of *four inches.*

Unnecessary bends or angles prohibited.

(iv.) No bend or angle shall (except where unavoidable) be formed in any pipe or shaft used in connection with either of the arrangements herein-before specified.

Soil pipe as ventilator.

(v.) Provided always, that for the purpose of either of the arrangements herein-before specified the soil pipe of any watercloset, in every case where the situation, sectional area, height, and mode of construction of such soil pipe shall be in accordance with the requirements applicable to the pipe or shaft to be carried up from the drains, may be deemed to provide the necessary opening for ventilation which would

otherwise be obtained by means of such last-mentioned pipe or shaft.

Ventilation of house drains.—The passage of sewer air into the house drains being theoretically prevented by the provision of the trap required by clause 63, it remains to prevent the accumulation of foul air in the drains above the trap by the proper ventilation of those drains. For this purpose there must be at least two openings,—an inlet and an outlet,—one of these being placed on the house side of, but as near as practicable to the trap, and the other at the opposite extremity of the main drain. (See Diagrams, Plate XVII., Fig. 40, Appendix.) Every branch drain, unless of short length, should also be ventilated at the highest point ; and clause 66 requires that every soil pipe shall be ventilated. The inlet and outlet should be of unequal height above the drain so as to induce a sufficient current of air throughout. The byelaw requires one of the two openings to be at or near the level of the surface of the ground, and the other to be carried up to a sufficient height to provide a safe outlet. In determining to what height the shaft must be carried in order to comply with the byelaw, the possibility of foul air being carried from the open end into any building through a window or ventilating opening, or even down a chimney, or through the interstices of the slates or other covering of the roof, must be considered. All these things have happened, with serious results. Sub-clause (i.) prescribes two alternative methods of complying with its requirements, the effect of which is merely to reverse the position of the inlet and outlet respectively, paragraph (*a*) requiring the inlet to be at the sewer end, and the outlet at the upper end of the drain (Plate XVII., Fig. 40, Appendix) ; and paragraph (*b*) permitting the outlet to be placed at the sewer end, and the inlet at the upper end of the drain. (See Diagram, Plate XVII., Fig. 41, Appendix.) As to the arrangement of ventilating openings in certain cases where the buildings come right up to the street, see note on clause 63. It is sometimes objected that offensive smells arise from openings at or near the level of the ground, such as are required by the byelaw. It may be safely said, however, that if the construction or condition of the drains be not at fault, and the ventilating arrangements themselves be not out of order, this can only arise from temporary causes. Thus, the pressure of the wind, or the flushing of the drains when a watercloset is in use, may momentarily occasion a down draught in the outlet pipe and a consequent upcast in the inlet pipe ; but the constant emission from the ground-level opening of offensive effluvia, if such occurs, must be held to indicate rather a defect in the drain or ventilators than an objection in principle to the arrangements prescribed. A proviso enabling a person erecting a new building to dispense with one or both of the openings referred to in clause 65, in cases where there are no indoor waterclosets and the drains are not more than thirty feet in length, will be found on p. 173.

Ventilating openings to be suitably covered.—Sub-clause (ii.) requires that the ventilating openings shall be furnished with suitable gratings or covers. The contingency of birds selecting the top of a ventilating shaft for the construction of a nest appears somewhat remote ; but a proper grated covering is very necessary in the case of openings at or near the level of the ground. Opinions differ as to the best means of finishing the open end of a ventilating pipe; some authorities being in favour of cowls, while others prefer to keep the end of the pipe open. The extracting power of the best cowls is doubtful. An efficient protecting cap is made by widening out the mouth of

the pipe to about twice its area, and fixing on it a spherical wire grating to keep the aperture free. The aggregate extent of the apertures in the cover (whatever form it may take) should be at least equal to the sectional area of the pipe over which it is fixed ; and, where necessary, the form of cover to a ground-level opening should be such that if dirt or stones should fall or be cast through the grating they would be received into a catch pit or dirt box, and not into the drain.

Diameter of ventilating pipes. (Clause 65 (iii.).)—It has already been pointed out (see note on clause 62) that, for all ordinary purposes, four-inch drains are equal, if not superior, to drains of larger diameter, and if four-inch drains are laid, the diameter of the ventilating shafts will not have to be greater than four inches. Under certain conditions, the soil pipe of a watercloset may be utilised as the ventilating outlet pipe required by clause 65. (See sub-clause (v.).) The diameter of soil pipes is regulated by clause 66.

Bends or angles in ventilators prohibited.—Every bend or angle in a ventilating pipe that can be dispensed with is a needless impediment to the passage of air through the pipe. The fantastic, snake-like forms which these pipes are sometimes made to assume in their passage upwards from the drains should, therefore, be discountenanced as much as possible.

Soil pipes as ventilators.—It may be pointed out that sub-clause (v.), under which the soil pipe of a watercloset may be deemed to provide the necessary opening for ventilation, which would otherwise be obtained by means of a pipe or shaft carried up ten feet or more under sub-clause (i.), stipulates that the situation, as well as the sectional area, height, and mode of construction of the soil pipe shall be such as to accord with the requirements applicable to a ventilating pipe other than a soil pipe. While, therefore, the soil pipe itself must always be ventilated (as required by clause 66), it cannot be deemed to take the place of a specially constructed shaft for the ventilation of the drains, if it is not situated at one of the extremities of the drain.

Rainwater pipes as ventilators.—Rainwater pipes are unsuitable for use as drain ventilators. Apart from other objections, they may be rendered useless for the purpose by a downward rush of water at a moment when ventilation is most necessary.

Ventilation of drains of limited length, where there are no indoor waterclosets.—The Local Government Board have approved of the addition to clause 65 of the following proviso :—

Drainage where waterclosets are outside buildings.

(vi.) Provided always, that where a watercloset shall be constructed so as not to have any internal communication with any building, and where the distance between the watercloset and the trap which, in pursuance of the byelaw in that behalf, shall be provided between the drain with which such watercloset communicates, and the sewer or other means of drainage into which such drain may lawfully empty, shall be not more than *ten feet*, or shall be more than *ten feet* and not

more than *thirty feet*, the following provisions shall have effect, that is to say:—

(*a.*) Where such distance shall be not more than *ten feet*, the requirements of this byelaw shall not apply to the case.

(*b.*) Where such distance shall be more than *ten feet* but shall not be more than *thirty feet*, an opening shall be obtained by carrying up from a point in the drain with which the watercloset communicates, as far distant as may be practicable from the trap, which, in pursuance of the byelaw in that behalf, shall be provided between such drain and the sewer or other means of drainage into which it may lawfully empty, a pipe or shaft, vertically to such a height and in such a manner as effectually to prevent any escape of foul air from such pipe or shaft into any building in the vicinity thereof, and in no case to a less height than *ten feet*, and such pipe or shaft shall be of a sectional area not less than that of the drain with which it may communicate, and not less in any case than the sectional area of a pipe or shaft of the diameter of *four inches*.

The effect of this proviso is to exempt from the requirements of the byelaw a person erecting a new building where the watercloset is outside the building, and the distance between the watercloset and the trap provided under clause 63 is not more than ten feet, and to require only one ventilating pipe to be provided (viz., at the upper end of the drain) where the drain exceeds ten feet but does not exceed thirty feet between those points. It is assumed that there will in these cases be no communication at all with the drain within the building (see the first paragraph of clause 66).

Inlets to drains.

66. A person who shall erect a new building shall not construct any drain of such building in such a manner as to allow any inlet to such drain (except such inlet as may be necessary from the apparatus of any watercloset) to be made within such building.

Soil pipes.

He shall cause the soil pipe from every watercloset in such building to be at least *four inches* in diameter, and to be fixed outside such building, and to be continued upwards without diminution of its diameter, and (except where unavoidable) without any bend or angle being formed in such soil pipe to such a height and in such a position as to afford, by means of the open end of such soil pipe, a safe outlet for sewer air.

He shall so construct such soil pipe that there shall not be any trap between such soil pipe and the drains, or any trap (other than such as may necessarily form part of the apparatus of any watercloset) in any part of such soil pipe.

He shall also cause the waste pipe from every bath, sink (not being a slop sink constructed or adapted to be used for receiving any solid or liquid filth), or lavatory, the overflow pipe from any cistern and from every safe under any bath or water-closet, and every pipe in such building for carrying off waste water to be taken through an external wall of such building, and to discharge in the open air over a channel leading to a trapped gully grating at least *eighteen inches* distant. Waste pipes.

He shall, as regards the mode of construction of the waste pipe from any slop sink constructed or adapted to be used for receiving within such building any solid or liquid filth, comply in all respects with such of the provisions of this byelaw as are applicable to the soil pipe from a watercloset.

Validity of the byelaw.—The validity of this byelaw was tested in the case of the *Chertsey Rural Sanitary Authority* v. *Marreso*, Times, March, 1884. The defendant was summoned for a breach of this byelaw, when the justices held that it was *ultrâ vires* and invalid, but stated a special case for the opinion of the High Court. The High Court held that the byelaw was *intra vires* and valid, and remitted the case to the justices to rehear the summons.

Inlets to drains.—The first paragraph of the byelaw contains an absolute prohibition of drain inlets within a building, except such as must necessarily be made in connection with indoor waterclosets. In such cases the byelaws provide for the proper trapping of the watercloset and the proper ventilation of the soil pipe. No other inlet to the drains should, under any circumstances, be permitted within any building. A gully opening in the floor of a cellar, for instance, should not be allowed under any pretext.

Construction of soil pipes.—Soil pipes should be constructed of lead or "heavy" cast iron, and they should be so fixed as to leave a clear space of one or two inches between the soil pipe and the surface of the wall outside which it is placed. A minimum diameter of four inches is necessary in order to permit of the soil pipe being used as a drain ventilating shaft in cases such as are provided for by clause 65 (v.), (*cf.* clause 65 (iii.)). As to the effect of unnecessary bends or angles in a ventilating pipe, and the height to which such pipe should be carried to secure a safe outlet, see notes on clause 65 (i.) and (iv.). The third paragraph of the present clause prohibits the adoption of any system of house drainage which contemplates the interposition of any form of trap between the soil pipe and the drains. In this position a trap needlessly interferes with the flow of sewage into the drains. It also precludes the use of a soil pipe for the purposes of ventilation, under clause 65 (v.).

Provision against "syphonage."—Where two or three waterclosets discharge into the same soil pipe, the downward rush caused by the flushing of one closet, and still more by the flushing of any two of the closets

simultaneously, may cause the trap of another closet to become unsealed by "syphonage." To prevent this, an air pipe (see Diagram, Plate XVIII., Fig. 45, Appendix) is usually taken from the main pipe below the branch from the lowest closet, and continued up to a point above the highest trap, where it is again connected with the main pipe. It may, however, be carried up without again entering the main pipe, to a point above the eaves. With this air pipe, a separate vent pipe from each trap is connected. The vent pipe enters the upper side of the trap below the crown, and thus supplies air so as to relieve the suction. It also affords means by which any foul air which may enter the branch from the soil pipe can be safely got rid of. In good work there would probably be no difficulty in securing the adoption of "anti-syphonage" arrangements without a byelaw, and the model series contains no provision on the subject. But if a byelaw for the purpose is proposed it might be based on a clause which is in force within the county of London. This byelaw was made by the London County Council under s. 39 (1) of the Public Health (London) Act, 1891.

Waste pipes from baths, sinks, lavatories, etc.— The model clause requires that the waste pipes from slop sinks, intended for the reception of "solid or liquid filth" (excreta),* shall be constructed in all respects like the soil pipes of waterclosets, and the propriety of this will be obvious. Waste-pipes from "housemaids," and ordinary scullery, or other sinks not intended to receive excreta, and from baths and lavatories, are to be carried through an external wall, and to discharge in the open air over a channel leading to a trapped gully, distant not less than eighteen inches from the point of discharge. (See Plate XVI., ig. 39, Appendix.) By this means, not only is direct connection between the drains and the interior of the building prevented, but the risk of unhealthy effluvia rising through the open ends of the waste pipes into the house from the gully itself is obviated. The byelaw also prevents these waste pipes being made to discharge into rainwater heads or down spouts, an arrangement which has been the cause of nuisance, and occasionally of more serious mischief in the neighbourhood of windows. A matter not dealt with in the model byelaws is the trapping of the waste pipes. A waste pipe for dirty water in time becomes very foul from the accumulation of soapsuds, etc., on its inner surface, and, if not properly trapped, unwholesome effluvia will enter the building. It would seem, therefore, to be desirable that the byelaws should require the waste pipe of every fitting of the kind to be properly trapped immediately beneath such fitting. The point might be met by the omission of the fourth paragraph of clause 66, and the substitution of the two paragraphs following :

Amended provisions as to waste and overflow pipes.

He shall cause the waste pipe from every bath, sink (not being a slop sink constructed or adapted to be used for receiving any solid or liquid filth), or lavatory to be properly trapped, immediately beneath such bath, sink, or lavatory, and to be taken through an external wall of such building, and to discharge in the open air over a channel leading to a trapped gully grating at least *eighteen inches* distant.

* Such slop sinks are chiefly met with in hospitals, and other similar institutions.

He shall cause the overflow pipe from any cistern and from every safe under any bath or watercloset to be taken through an external wall of such building, and to discharge in the open air.

As to the requisites of a proper trap, see note on p. 169.

Protection against syphonage.—Where sinks, lavatories, and baths are connected to a common waste pipe, the water seals of their traps should be protected against syphonage by proper vent pipes. (See note on p. 175.)

Urinal waste pipes.—The construction of urinals is not a matter which is within the scope of the byelaws. The drainage arrangements in connection with such conveniences may no doubt be regulated, under sub-s. (4) of s. 157 of the Public Health Act, 1875, in the case of urinals within buildings; but the necessity for any special provision on the subject may be doubted, and it is certainly not expedient to encourage the provision of urinals within buildings. They are very apt to cause nuisance from the difficulty that arises in keeping them clean. In all forms of urinal, whether for public or private use, it is desirable that the urine should be discharged into a large body of water, and that regular and automatic flushing should be applied to the basin or trough.

With respect to watercloseets, earthcloseets, privies, ashpits, and cesspools in connection with buildings.

67. Every person who shall construct a watercloset or earth-closet in a building shall construct such watercloset or earthcloset in such a position that one of its sides at the least shall be an external wall.

One side of watercloset or earth-closet to be an external wall.

General powers of local authority as to watercloseets, etc.—Section 36 of the Public Health Act, 1875, which empowers a local authority to give notice requiring the owner of a house to provide a sufficient watercloset, earthcloset, or privy, and, in case of non-compliance, empowers the local authority to do the necessary works and recover the expenses, does not empower such authority to enforce a general resolution that in all such cases within their jurisdiction a particular system shall be adopted; but they are bound to exercise their discretion in each particular case, and consequently a notice in accordance with the general resolution, and requiring compliance with its provisions, is invalid (*Wood* v. *Widnes Corporation*, [1898] 1 Q. B. 463; 62 J. P. 117; 67 L. J. Q. B. 254; 77 L. T. 779; 46 W. R. 293; 14 T. L. R. 192; *Tinkler* v. *Wandsworth Board of Works* (1858), 2 De G. & J. 261; 27 L. J. Ch. 261; 30 L. T. (o.s.) 146; 22 J. P. 223). They have no power to require the owner to supply any particular kind of watercloset; they have only power to require him to supply a sufficient one (*Robinson* v. *Mayor, etc. of Sunderland* (1898), 62 J. P. 216). Where a local authority proceeds to enforce an improper requirement as above indicated an injunction will lie to restrain them (*Tinkler* v. *Wandsworth Board of Works* (*supra*); *Robinson* v. *Mayor, etc. of Sunderland* (*supra*)). If, however, the owner allows them to do the works, he may raise objection on their seeking to recover from him the amount expended (*Wood* v. *Widnes Corporation*).

Byelaws as to watercloseets, earthcloseets, etc.—Unlike any of the preceding clauses which relate to buildings, the model byelaws numbered 67 to 89 in this series are not limited in their application to persons erecting new buildings, but extend to every case in which, after the confirmation of the byelaws, a watercloset, earthcloset, privy, ashpit, or cesspool may be constructed in connection with a building, provided that the building be one erected subsequently to the times mentioned in s. 157 of the Public Health Act, 1875. (See note, p. 78.) Where Part III. of the Public Health Acts Amendment Act, 1890, has been adopted by an urban or rural district council, or where, in the case of a rural district, s. 23 (2) of that Act has been otherwise put in force (see ss. 3 and 5 of the Act of 1890), the byelaws in question may be "made so as to affect buildings erected before the times mentioned in the said section," and the most convenient method of doing this is to insert in clause 1 the definition of "building" which is suggested on p. 90. As to the making of byelaws under sub-s. (1) of s. 23 of the last-mentioned Act, with respect to "the keeping watercloseets supplied with sufficient water for flushing," see notes on pp. 78, 182.

Watercloseets and earthcloseets to have one side in an external wall.—The soil pipe of every indoor watercloset must, under clause 66, be fixed outside the building; and under clause 68, provision must be made for the lighting and ventilation of watercloseets and earthcloseets wherever situated. In order to enable this to be done, one side at least of the closet must be an external wall.

Earthcloseets within buildings.—It will be noticed that the byelaws permit of the construction of an earthcloset within a building, and if the closet be properly constructed, and placed in a suitable position, and if a sufficient supply of dry earth of suitable quality be always available for use, and be systematically made use of in connection with the closet, perhaps no objection can usually be taken to the arrangement on sanitary grounds. As, however, the success of the dry-earth system so much depends upon careful attention being given to these matters, and as it is not absolutely certain that excrement, even if properly deodorised by means of dry earth, is, under all circumstances, harmless, it is sometimes considered preferable to prohibit the construction of an earthcloset inside a building. (See "The Disposal of Refuse." By Dr. W. H. Corfield and Dr. Louis C. Parkes, in Drs. Stevenson and Murphy's "Treatise on Hygiene and Public Health," and the Report of Mr. J. Netten Radcliffe "On certain means of preventing excrement nuisances.") This may be effected by means of a clause such as that suggested on p. 187, which, however, would probably not prevent the use inside a building of a movable earth commode. If indoor earthcloseets are thus prohibited, the references to an earthcloset in clause 67 should be omitted, and some modification of clause 68 will be necessary. For clauses prohibiting the construction of indoor earthcloseets with fixed receptacles, see pp. 185—187.

Windows of watercloseets and earthcloseets.

68. Every person who shall construct a watercloset or earthcloset in connection with a building, whether the situation of such watercloset or earthcloset be or be not within such building, shall construct in one of the walls of such watercloset or earthcloset a window of not less dimensions than *two feet* by

one foot, exclusive of the frame, and opening directly into the external air.

He shall, in addition to such window, cause such watercloset or earthcloset to be provided with adequate means of constant ventilation by at least one air-brick built in an external wall of such watercloset or earthcloset, or by an air shaft, or by some other effectual method or appliance. Additional means of ventilation of waterclosets and earth-closets.

Lighting and ventilation of waterclosets and earthclosets.—The construction of a window is necessary for the proper lighting, as well as for the ventilation, of the closet ; and it is desirable that a minimum size should be prescribed for the window, as the wholesome condition of the closet will be both directly and indirectly affected by the provision of insufficient means of lighting. The window should open to the extent of at least half its area, the opening extending to the top of the window, and this should be as near as possible to the ceiling. The additional means of ventilation required by the second paragraph of the clause must be considered necessary if only on the ground that the window may, and during the night, if the closet is inside the house, probably will, in many instances, be kept shut. The admission of fresh air, however, only dilutes any foul air that may be within the closet : it does not prevent the passage of effluvia into other parts of the building where the closet is indoors. For the complete ventilation of an indoor closet, therefore, a proper outlet to the external air should be provided independently of the window. An air-shaft carried up from the top of the closet near the ceiling would best answer the purpose. In the case of a closet, the door of which opens directly into the external air, a small space left open beneath and over the door will meet all requirements.

69. Every person who shall construct a watercloset in connection with a building shall furnish such watercloset with a separate cistern, or flushing box of adequate capacity, which shall be so constructed, fitted, and placed as to admit of the supply of water for use in such watercloset without any direct connection between any service pipe upon the premises and any part of the apparatus of such watercloset, other than such cistern, or flushing box. Flushing apparatus of waterclosets.

He shall furnish such watercloset with a suitable apparatus for the effectual application of water to any pan, basin, or other receptacle with which such apparatus may be connected and used, and for the effectual flushing and cleansing of such pan, basin, or other receptacle, and for the prompt and effectual removal therefrom of any solid or liquid filth which may from time to time be deposited therein.

He shall furnish such watercloset with a pan, basin, or other suitable receptacle of non-absorbent material, and of such shape, of such capacity, and of such mode of construction Pans of waterclosets.

as to receive and contain a sufficient quantity of water, and to allow all filth which may from time to time be deposited in such pan, basin, or receptacle to fall free of the sides thereof, and directly into the water received and contained in such pan, basin, or receptacle.

"Containers" and "'D' traps" prohibited.

He shall not construct or fix under such pan, basin, or receptacle any "container" or other similar fitting.

He shall not construct or fix in or in connection with the watercloset apparatus any trap of the kind known as a "'D' trap."

Flushing of waterclosets.—The points to be considered in connection with this matter are (*a*) the sufficiency of the flush, and (*b*) the prevention of the contamination of the general water supply of the building through any connection with the closet. The sufficiency of the flush depends primarily upon the volume and force of the water liberated by each pull or lift of the valves; but it is greatly affected by the size and arrangement of the service pipe, the shape of the pan or basin of the closet, and the way in which the water is made to enter the pan. A flush of two gallons, properly applied, may effectually cleanse a well-constructed closet pan, where double that quantity would be ineffectual in removing all traces of soil from one of improper shape, in which the water could not spread itself with sufficient force all over the internal surface of the pan. The only effectual method of protecting the general water supply against contamination from the closets is to provide a service cistern or flushing box for flushing purposes only, and this is required by the first paragraph of the clause now under consideration. As regards the construction of service cisterns, the clause provides only in the most general way. It merely requires them to be of adequate capacity (a matter affecting the sufficiency of the flush), and to be so constructed, etc., as to make a complete break between the service pipes and the closet pan. Messrs. P. Gordon Smith and Keith D. Young, in an admirable article already referred to, state that, "in order to make the flush effectual, both as regards volume and force, it is requisite to fix the flushing cistern at least four or five feet above the closet basin, and to provide a pipe from the cistern to the basin of at least one and a quarter inches diameter." (See "The Dwelling," in Drs. Stevenson and Murphy's "Treatise on Hygiene and Public Health.") The flush should in no case be less than two gallons: where possible, it should be three gallons. In a like general way, the second paragraph of clause 69 deals with the other parts of the apparatus necessary for the proper flushing of the pan. The construction of the pan itself is regulated by paragraph 3. Incidentally, it may be pointed out that no form of closet which is without proper flushing apparatus will satisfy the requirements of the byelaw. Mere hand flushing by means of buckets of water from time to time thrown down the closet will not suffice.

Shape of pan, basin, or receptacle of watercloset.—Beyond certain limits, it forms no part of the legitimate scope of these byelaws to determine the special fitness or otherwise of the various forms of closet pans from time to time introduced. It will be seen, however, that the combined effect of paragraphs 2 and 3 of clause 69 is to prohibit the construction of closets with pans

of the "*long hopper*" pattern (now almost, though not quite, obsolete). It will be seen from the diagram (Plate XVIII., Fig. 47, Appendix) that this form of closet will not satisfy the requirement that the pan shall be such as to be readily cleansed by a reasonable flush of water properly applied, and to admit of the excreta falling clear of the sides into a sufficient quantity of water in the bottom of the pan. It is also questionable whether the "*wash-out*" type of closet altogether complies with the requirements of the clause. In this form of closet (see Fig. 49) the filth tends to become spread out over a comparatively flat bottom in a very shallow depth of water. Moreover, when the flush is released—assuming it to be sufficient to clear the pan—the fæces are broken up and dashed with great force against the inner surface of the front of the pan, and this not only increases the effluvia in connection with the use of the closet, but causes the passage between the pan proper and the trap to become fouled and give off noxious exhalations, which readily pass into the house. The older *pan closet* is prohibited by the fourth paragraph of clause 69, as it necessitates the use of a "container." The diagram (Plate XVIII., Fig. 46, Appendix) shows not only the container in position, but also one of the "D" traps (Fig. 46) prohibited by paragraph 5. The objection both to the container and to the "D" trap is that neither is in the remotest degree self-cleansing in any proper sense of the term, and that in course of time the accumulation of filth in places where the flush cannot reach it is so great as to constitute a direct danger to health whenever the handle is pulled. If any part of the apparatus becomes unsound the danger is incalculably increased. Happily, at the present day, it is unnecessary to emphasise the defects of these forms of apparatus.

"Slopclosets" and "troughclosets."—Two forms of watercloset—the slopcloset and the troughcloset—which are not specifically referred to in the model byelaws, need passing mention, in connection with a report presented to the Local Government Board in the year 1891, by Dr. Parsons, now one of the assistant medical officers of that Board. ["Slopclosets and troughclosets," being a report by H. F. Parsons, M.D. (London : Eyre & Spottiswoode, 1892).] A slopcloset is defined by Dr. Parsons, to be one from which the excrement is intended to be washed away into the drain by means of the slops or refuse liquids of the household, instead of by clean water supplied for the purpose (see Plate XIX., Fig. 42, Appendix); while troughclosets are so constructed that the excreta from a range of closets placed side by side fall into a trough which is partly filled with water, and from which they are usually discharged by means of a flush applied at one end of the trough. (See Diagram, Plate XIX. Fig. 43, Appendix.) The slopcloset with "automatic" flushing apparatus, was considered by Dr. Parsons to be well adapted for cottages with separate closet accommodation, in places where the charge for water was high; and the troughcloset for schools, mills, and other places where closets are used in common by large numbers of people. Neither of these closets is suitable for indoor use; but if constructed with suitable apparatus for flushing, some forms of them would seem to comply with the requirements of clause 69 of these byelaws. Where, however, it is desired to prescribe more detailed requirements with regard to the construction of slop waterclosets, the following clause may be considered. Its adoption would make it necessary to limit the operation of model clause 69 to waterclosets other than slop waterclosets.

Construction of slop waterclosets.

Every person who shall construct in connection with a building a watercloset of the kind known as a slop watercloset,

shall so construct such closet that it shall not be entered otherwise than from the external air.

He shall furnish such watercloset with a pan, basin or other suitable receptacle of non-absorbent material, and of such shape, of such capacity, and of such mode of construction as to receive and contain a sufficient quantity of water, and to allow all filth which may from time to time be deposited in such pan, basin or receptacle, to fall free of the sides thereof, or of any shaft leading thereto, and directly into the water received and contained in such pan, basin or receptacle.

He shall construct or fix under such pan, basin or receptacle a suitable trap.

He shall furnish such watercloset with a proper tipper or flushing tank of glazed stoneware, or other suitable smooth and impervious material, of a capacity not less than *three gallons*, and so constructed as when full to discharge the whole of its contents by automatic action into the pan, basin or other receptacle with which such closet may be provided for the effectual flushing and cleansing of such pan, basin or other receptacle, and for the prompt and effectual removal therefrom, and from the trap beneath the same, of any solid or liquid filth which may from time to time be deposited therein.

He shall cause such watercloset to be so constructed and so connected with proper surface water and waste water drains, that the surface water from the yard and roof of such building and from the roof of any other building within the same curtilage, and the waste water from such building may be conveyed into such tipper or flushing tank.

Provided that a single tipper or flushing tank may be constructed so as to serve for two waterclosets of the kind known as slop waterclosets, which immediately adjoin one another, and are in connection with one and the same building, but in such case such tipper or flushing tank shall have a capacity of not less than *five gallons*.

Keeping of waterclosets supplied with sufficient water for flushing.—Byelaws with respect to waterclosets under s. 157 (4) of the Public Health Act, 1875, cannot directly provide as to the keeping of the closets supplied with sufficient water for flushing. They can, as in clause 69 of the present series, require the provision of the necessary apparatus; but, under the general law, the supply of water for flushing purposes can only be dealt with specifically by means of a byelaw, under s. 23 (1) or (3) of the Public Health Acts Amendment Act, 1890. In this respect the two sections are complementary, the one of the other. As regards the byelaws authorised by the Act of 1890, see notes on pp. 78, 106.

Construction of earthclosets and privies should be regulated.—The construction of earthclosets and privies forms the subject of clauses 70—79 of the model series. The fact that the Public Health Acts recognise properly constructed earthclosets and privies as sufficient forms of privy accommodation, and that, except under circumstances such as are provided for by s. 36 of the Public Health Act, 1875, the local authority are not empowered to require the provision of waterclosets to the exclusion of other forms of privy construction, has been dealt with on pp. 23, 177. In connection with this subject, it should be pointed out that the omission of clauses 70—79 would not prevent the construction of earthclosets and privies: it would merely leave their construction unregulated. The clauses in question should accordingly find a place in any series of byelaws made under s. 157 of the Public Health Act, 1875, unless a satisfactory series dealing with the subject is already in force, or the matter is regulated by the provisions of a local Act.

Apparatus of earthclosets.

70. Every person who shall construct an earthcloset in connection with a building shall furnish such earthcloset with a reservoir or receptacle, of suitable construction and of adequate capacity, for dry earth or other deodorizing substance, and he shall construct and fix such reservoir or receptacle in such a manner and in such a position as to admit of ready access to such reservoir or receptacle for the purpose of depositing therein the necessary supply of dry earth or other deodorizing substance.

He shall construct or fix in connection with such reservoir or receptacle suitable means or apparatus for the frequent and effectual application of a sufficient quantity of dry earth or other deodorizing substance to any filth which may from time to time be deposited in any pan, pit, or other receptacle for filth constructed, fitted, or used in or in connection with such earthcloset.

What constitutes an earthcloset.—As to what constitutes an earthcloset, see note on p. 23.

Apparatus of earthclosets.—Clause 70 of the model byelaws requires that every newly-erected earthcloset shall be furnished with a receptacle for dry earth or other deodorizing substance, and with suitable means or apparatus (which should, if possible, be automatic) for the application of the deodorant to the filth from time to time deposited in the earthcloset.

Supply of dry earth.—See note, p. 24.

Earthclosets with fixed receptacles.

71. Every person who shall construct an earthcloset in connection with a building, and shall provide in or in connection with such earthcloset a fixed receptacle for filth, shall construct or fix such receptacle in such a manner and in such a position as to admit of the frequent and effectual application of a

sufficient quantity of dry earth or other deodorizing substance to any filth which may from time to time be deposited in such receptacle, and in such a manner and in such a position as to admit of ready access to such receptacle for the purpose of removing the contents thereof.

He shall not construct such receptacle of a capacity greater than may be sufficient to contain such filth and dry earth or other deodorizing substance as may be deposited therein during a period not exceeding *three months*, or in any case of a capacity exceeding *forty cubic feet*.

He shall construct such receptacle of such material or materials, and in such a manner, as to prevent any absorption by any part of such receptacle of any filth deposited therein, or any escape, by leakage or otherwise, of any part of the contents of such receptacle.

He shall construct or fix such receptacle so that the bottom or floor thereof shall be at least *three inches* above the level of the surface of the ground immediately adjoining the earthcloset, and so that the contents of such receptacle may not at any time be exposed to any rainfall or to the drainage of any waste water or liquid refuse from any adjoining premises.

Earthclosets with fixed receptacles.—The expression "fixed receptacle" in connection with an earthcloset or a privy, has been explained at p. 23 (see also Diagram, Plate XX., Fig. 51, Appendix). As to the kind of earth which is deemed most suitable for use in connection with an earthcloset, see note ("Supply of deodorants") on p. 24. The present clause deals with the construction of fixed earthcloset receptacles, the object being to prevent the retention of filth, even in an earthcloset, for too long a period in the immediate neighbourhood of buildings, and to ensure that the contents of the closet shall be kept dry during the period of retention. It is essential that this dryness should be maintained; for the mixture of earth and excrement in the receptacle when fresh will, if exposed to wet, enter into ordinary decomposition, and become fœtid (Sir George Buchanan, M.D., F.R.S., late medical officer of the Local Government Board, in a report of an official inquiry made by him in 1869). Suitable means of access are necessary for the proper cleansing of the receptacle. The process is facilitated by having the bottom or floor above the level of the surface of the ground. Where clauses 71A, 72A, and 73A, prohibiting the construction of indoor earthclosets with fixed receptacles, are adopted, clause 71 should be omitted. As to the cleansing of earthclosets with fixed receptacles, where a byelaw can be made on the subject, see clause 3 of the model series as to scavenging (p. 22).

Earthclosets with movable receptacles.

72. Every person who shall construct an earthcloset in connection with a building, and shall provide in or in connection with such earthcloset a movable receptacle for filth,

shall construct such earthcloset so that the position and mode of fitting of such receptacle may admit of the frequent and effectual application of a sufficient quantity of dry earth or other deodorizing substance to any filth which may from time to time be deposited in such receptacle, and may also admit of ready access to that part of the earthcloset in which such receptacle may be placed or fitted, and of the convenient removal of such receptacle or of the contents thereof.

He shall also construct such earthcloset so that the contents of such receptacle may not at any time be exposed to any rainfall or to the drainage of any waste water or liquid refuse from any adjoining premises.

Earthclosets with movable receptacles.—The movable receptacle must, as regards the frequent application of earth, and the preservation of the dryness of contents, be treated in like manner as a "fixed receptacle." Access to the receptacle should be given by making the seat and riser of the closet removable (as shown in Fig. 52, Appendix), or by placing a suitable door in one of the sides of the space beneath the seat. If clauses 71A, 72A, and 73A are adopted, the present clause, as well as clause 71, should be omitted from the series. As to the cleansing of earthclosets having movable receptacles (where the local authority can make byelaws on the subject), see clause 4 of the model series with regard to scavenging (p. 23).

Earthcloset with fixed receptacle to be outside buildings.

71a. Every person who shall construct an earthcloset in connection with a building and shall provide in or in connection with such earthcloset a fixed receptacle for filth, shall construct such earthcloset outside such building, and shall construct or fix the receptacle of such earthcloset in such a manner and in such a position as to admit of the frequent and effectual application of a sufficient quantity of dry earth or other deodorising substance to any filth which may from time to time be deposited in such receptacle and in such a manner and in such a position as to admit of ready access to such receptacle for the purpose of removing the contents thereof.

He shall not construct such receptacle of a capacity greater than may be sufficient to contain such filth and dry earth or other deodorising substance as may be deposited therein during a period not exceeding *three months* or in any case of a capacity exceeding *forty cubic feet.*

He shall construct such receptacle of such material or materials and in such a manner as to prevent any absorption by any part of such receptacle of any filth deposited therein or

any escape by leakage or otherwise of any part of the contents of such receptacle.

He shall construct or fix such receptacle so that the bottom or floor thereof shall be at least *three inches* above the level of the surface of the ground immediately adjoining the earth-closet and so that the contents of such receptacle may not at any time be exposed to any rainfall or to the drainage of any waste water or liquid refuse from any adjoining premises.

Earthcloset with movable receptacle constructed outside building.

72a. Every person who shall construct an earthcloset in connection with but not within a building, and shall provide in or in connection with such earthcloset a movable receptacle for filth, shall construct such earthcloset so that the position and mode of fitting of such receptacle may admit of the frequent and effectual application of a sufficient quantity of dry earth or other deodorising substance to any filth which may from time to time be deposited in such receptacle, and may also admit of ready access to that part of the earthcloset in which such receptacle may be placed or fitted, and of the convenient removal of such receptacle or of the contents thereof.

He shall also construct such earthcloset so that the contents of such receptacle may not at any time be exposed to any rainfall or to the drainage of any waste water or liquid refuse from any adjoining premises.

Earthcloset within building to have movable receptacle.

73a. Every person who shall construct an earthcloset within a building shall construct such earthcloset for use in combination with a movable receptacle for filth.

He shall construct such earthcloset so as to admit of a movable receptacle for filth of a capacity not exceeding *two cubic feet* being placed and fitted beneath the seat in such a manner and in such a position as may effectually prevent the deposit upon the floor or sides of the space beneath such seat, or elsewhere than in such receptacle of any filth which may from time to time fall or be cast through the aperture in such seat.

He shall construct such receptacle in such a manner and in such a position as to admit of the frequent and effectual application of a sufficient quantity of dry earth or other deodorising substance to any filth which may from time to time be deposited in such receptacle and in such a manner and

in such a position as to admit of ready access for the purpose of removing the contents thereof.

Alternative clauses as to earthclosets.—These three clauses, 71A, 72A, 73A, may be adopted by the local authority in place of clauses 71 and 72. The only difference between clauses 71 and 71A is that the latter requires an earthcloset with a fixed receptacle to be outside the building in connection with which it is constructed. The provisions of clause 72A are the same as those of clause 72, except that they only apply to earthclosets with movable receptacles which are placed out-of-doors. Clause 73A deals with indoor earthclosets, and is designed to secure that the movable receptacle to be provided in such cases shall be of such limited size as to practically necessitate a weekly cleansing (see clause 4 of the model series as to the cleansing of earthclosets, etc.), and that it shall be so placed in position as to effectually catch all droppings falling through the seat.

Prohibition of indoor earthclosets.—If it is desired to entirely prohibit the construction of earthclosets within a building,* the following clause may be suggested :—

Indoor earthclosets prohibited.

Every person who shall construct an earthcloset in connection with a building, shall construct such earthcloset outside such building.

Position of privy in relation to buildings;

73. Every person who shall construct a privy in connection with a building shall construct such privy at a distance of *six feet* at the least from a dwelling-house or public building, or any building in which any person may be or may be intended to be employed in any manufacture, trade, or business.

in relation to sources of water supply;

74. A person who shall construct a privy in connection with a building shall not construct such privy within the distance of *feet* from any well, spring, or stream of water used or likely to be used by man for drinking or domestic purposes, or for manufacturing drinks for the use of man, or otherwise in such a position as to render any such water liable to pollution.

for purposes of cleansing.

75. Every person who shall construct a privy in connection with a building shall construct such privy in such a manner and in such a position as to afford ready means of access to such privy, for the purpose of cleansing such privy and of removing filth therefrom, and in such a manner and in such a position as to admit of all filth being removed from such privy, and from the premises to which such privy may belong, without being carried through any dwelling-house or public building, or any

* See note, p. 178.

building in which any person may be, or may be intended to be employed in any manufacture, trade, or business.

Neccessity for regulating construction of privies.—In all ordinary cases, clauses 73—79 should on no account be omitted from the series when adopted by a local authority. The effect of doing so has already been pointed out (see note, p. 183).

Position of privy.—A privy, even when constructed in accordance with the model byelaws, should not be within six feet of any building in which human beings spend much of their time, or in which a number of persons may from time to time be assembled in a confined atmosphere. If the local authority should wish to prohibit the construction of a privy within a greater distance from buildings than six feet, the provisions of clause 54 with regard to the distance across the open space in rear of domestic buildings prescribed by that clause, will require consideration. No privy should be allowed to be newly erected within *forty feet* of any well or running water; for although s. 47 (3) of the Public Health Act, 1875, renders liable to penalties any person who in any urban district (or in any rural district where the section has been put in force by an order of the Local Government Board) allows the contents of any privy to overflow or soak therefrom, and although the risk of soakage from a privy is reduced to a minimum where the privy is constructed in accordance with these byelaws, yet too great precaution can hardly be taken to prevent the pollution of water supplies. The water in any cistern which may be in the immediate neighbourhood of a privy is liable to contamination by noxious emanations from the filth therein, but the prohibition of the construction of a privy within a given distance of a water cistern, would not prevent the placing of a cistern within that distance of a privy after the privy was completed. Clause 75, in effect, prohibits the construction of a privy in connection with any building unless there is a side passage or back street by means of which the filth from time to time removed from the privy can be taken away without bringing it through the building. This is a requirement of great sanitary importance in relation to the prevention of nuisance. Reference may also be made to clause 4 of the model series as to nuisances (p. 33).

Ventilation of privies.

76. Every person who shall construct a privy in connection with a building shall provide such privy with a sufficient opening for ventilation, as near to the top as practicable, and communicating directly with the external air.

Floors of privies.

He shall cause the floor of such privy to be flagged or paved with hard tiles or other non-absorbent material, and he shall construct such floor so that it shall be in every part thereof at a height of not less than *six inches* above the level of the surface of the ground adjoining such privy, and so that such floor shall have a fall or inclination towards the door of such privy of *half an inch* to the *foot*.

Construction of privies.—The necessity of proper ventilation, urgent as it is in connection with any form of sanitary convenience, becomes greatest

in relation to closets of the privy kind. "The floor," which should in every part be above the level of the ground, "should be of impervious material, and . . . should slope somewhat towards the door." (See Report of Mr. J. Netten Radcliffe, late medical inspector of the Local Government Board, "On certain means of preventing excrement nuisances in towns and villages," 1875.) The construction of the seat and of the chamber beneath the seat is dealt with in the next three clauses of the model series.

Privies with movable receptacles.

77. Every person who shall construct a privy in connexion with a building, and shall construct such privy for use in combination with a movable receptacle for filth, shall construct over the whole area of the space immediately beneath the seat of such privy a flagged or asphalted floor, at a height of not less than *three inches* above the level of the surface of the ground adjoining such privy; and he shall cause the whole extent of each side of such space between the floor and the seat to be constructed of flagging, slate, or good brickwork, at least *nine inches* thick, and rendered in good cement or asphalted.

He shall construct the seat of such privy, the aperture in such seat, and the space beneath such seat, of such dimensions as to admit of a movable receptacle for filth of a capacity not exceeding *two cubic feet* being placed and fitted beneath such seat in such a manner and in such a position as may effectually prevent the deposit, upon the floor or sides of the space beneath such seat or elsewhere than in such receptacle, of any filth which may from time to time fall or be cast through the aperture in such seat.

He shall construct the seat of such privy so that the whole of such seat, or a sufficient part thereof, may be readily removed or adjusted in such a manner as to afford adequate access to the space beneath such seat for the purpose of cleansing such space, or of removing therefrom or placing and fitting therein the appropriate receptacle for filth.

Privies with fixed receptacles.

78. Every person who shall construct a privy in connection with a building, and shall construct such privy for use in combination with a fixed receptacle for filth, shall construct or fix in or in connection with such privy suitable means or apparatus for the frequent and effectual application of ashes, dust, or dry refuse to any filth which may from time to time be deposited in such receptacle.

He shall construct such receptacle so that the contents thereof may not at any time be exposed to any rainfall or the

drainage of any waste water or liquid refuse from any adjoining premises.

He shall construct such receptacle of such material or materials and in such a manner as to prevent any absorption by any part of such receptacle of any filth deposited therein or any escape, by leakage or otherwise, of any part of the contents of such receptacle.

He shall construct such receptacle so that the bottom or floor thereof shall be in every part at least *three inches* above the level of the surface of the ground adjoining such receptacle.

He shall not in any case construct such receptacle of a capacity exceeding *eight cubic feet.*

He shall construct the seat of such privy so that the whole of such seat, or a sufficient part thereof, may be readily removed or adjusted in such a manner as to afford adequate access to such receptacle for the purpose of removing the contents thereof, and of cleansing such receptacle, or shall otherwise provide in or in connection with such privy adequate means of access to such receptacle for the purpose aforesaid.

Construction of privy chambers.—The construction of the floors of privies and the provision of means of ventilation having been dealt with by clause 76, clauses 77—79 proceed to regulate the construction of the chamber in which the excreta are received, either in a pail or other "movable receptacle," or on the bottom of the chamber itself. In a closet of either type (see Figs. 51 and 52, Appendix), the bottom and sides of the chamber should, as far as possible, be impervious.

In the case of a privy with a *movable receptacle*, where it is intended to give access to the chamber by lifting up the seat (the arrangement contemplated by clause 77), all four sides of the chamber can and should be thus constructed; but it is sometimes convenient to provide for the construction of a door in one side of the chamber, so that the privy pail can be removed and replaced from outside. A slight modification of the clause in order to enable this arrangement to be adopted would probably be assented to by the Local Government Board. In any case, the bottom of the chamber should be slightly above the surface of the ground, and the space under the seat should be no greater than is necessary to permit of a privy pail just large enough for the probable needs of the household during a period of *one week*, being placed beneath the aperture. The cleansing of privies of this description, where byelaws on the subject can be made by the local authority, is dealt with by clause 6 of the model series as to scavenging (see p. 24). Unlike privies with movable receptacles, those with *fixed receptacles* are designed to receive ashes and other dry refuse, as well as excreta. But here, again, the provision should be sufficient only for one week's accumulation. It is of the utmost importance that the space for the mingled ashes and excrement should not be exposed to rainfall, surface drainage, or the soakage of subsoil water, and that the materials of which the bottom and sides are constructed should, as far as possible, be non-absorbent.

The provisions of the model byelaws, if duly enforced, will effectually secure this. Clause 5 of the series as to scavenging, provides for the cleansing of privies with fixed receptacles, where a byelaw on the subject can be made. The clause referred to will be found on p. 24.

Communication of privy with drain prohibited.

79. A person who shall construct a privy in connection with a building shall not cause or suffer any part of the space under the seat of such privy, or any part of any receptacle for filth in or in connection with such privy to communicate with any drain.

Drainage of privy prohibited.—Drainage of the privy receptacle, or of the space for its reception, would be a provision for a state of things which it is the object of the model byelaws to prevent, viz., a wet, sloppy state of the contents. The existence of such provision, indeed, might almost seem to invite the throwing of house slops, etc., into the receptacle, and such objectionable practices should be discouraged in every possible way. The chief evil to be anticipated, however, is the blocking of the drains with solid matters carried into them from the privy. Speaking generally, it might be said that if provision for drainage is possible there is no reason why a water-closet should not be provided instead of a privy.

Position of ashpit in relation to buildings;

80. Every person who shall construct an ashpit in connection with a building shall construct such ashpit at a distance of *six feet* at the least from a dwelling-house or public building, or any building in which any person may be, or may be intended to be employed in any manufacture, trade, or business.

in relation to sources of water supply;

81. A person who shall construct an ashpit in connection with a building shall not construct such ashpit within the distance of *feet* from any well, spring, or stream of water used or likely to be used by man for drinking or domestic purposes, or for manufacturing drinks for the use of man, or otherwise in such a position as to render any such water liable to pollution.

for purposes of cleansing.

82. Every person who shall construct an ashpit in connection with a building shall construct such ashpit in such a manner and in such a position as to afford ready means of access to such ashpit for the purpose of cleansing such ashpit, and of removing the contents thereof, and, so far as may be practicable, in such a manner and in such a position as to admit of the contents of such ashpit being removed therefrom, and from the premises to which such ashpit may belong, without being carried through any dwelling-house or public building, or any

building in which any person may be, or may be intended to be employed in any manufacture, trade, or business.

What is an ashpit.—Section 11 (1) of the Public Health Acts Amendment Act, 1890, provides that the expression "ashpit" in the Public Health Acts, shall, for the purpose of the execution of those Acts, include any ashtub or other receptacle for the deposit of ashes, fæcal matter, or refuse. It will be seen that the model byelaws 80—85, of the present series, apply only to persons "constructing" ashpits. The provision of a galvanized iron or other movable receptacle for ashes and dry refuse could scarcely be considered as the construction of an ashpit; but under the heading "with respect to . . . ashpits . . . in connection with buildings," it would seem that the local authority could make byelaws regulating the capacity of such ashbins, the material of which they are to be constructed, etc., and requiring ashpit accommodation to be provided in certain cases in this form, instead of in the form of a built-up ashpit. They could not, probably, by any general prohibition express or implied, prevent the construction of ashpits with fixed receptacles in any case. A form of byelaw regulating the construction of movable ashpits is suggested at p. 193.

Position of ashpit.—As the ashpit so often contains quantities of vegetable and other matters in process of decomposition, it should be at least *six feet* from any dwelling-house or other building such as is mentioned in clause 80. In connection with any proposed increase of this distance, the provisions of clause 54 as to the distance across open space in rear of buildings prescribed by that clause, will require consideration. No ashpit should be within "*thirty feet*" of any well, spring, stream, or cistern from which water is likely to be taken for drinking or domestic purposes; otherwise the effluvia from the ashpit, or the dust produced by sifting cinders thereat, may cause pollution of the water. The difficulty as regards water tanks and cisterns, however, has been indicated in connection with the model clause 74. As to the means of access to ashpits for the purpose of cleansing, it will be noticed that the words "so far as may be practicable" which are inserted in this clause, do not appear in clause 75. Without these words, however, the byelaw now under consideration might be held to be unreasonable, as applying to all ashpits, including those used only for ashes, dust, and dry refuse. Where the ashpit was connected with a privy, clause 75 would, as regards new erections, secure the provision of means of access for the removal of the contents without carrying them through any dwelling-house, etc.

Capacity of ashpits.

83. Every person who shall construct an ashpit in connection with a building shall construct such ashpit of a capacity not exceeding in any case *six cubic feet*, or of such less capacity as may be sufficient to contain all dust, ashes, rubbish, and dry refuse which may accumulate during a period not exceeding *one week* upon the premises to which such ashpit may belong.

Capacity of ashpits.—The cleansing of ashpits is intended to be regulated, where the district council do not themselves undertake or contract for the work, and where the model byelaws are adopted, by clauses 7 and 8 of the series under the first part of s. 44 of the Public Health Act, 1875. The notes

on those clauses may be referred to (see p. 25), the present clause being intended to practically enforce a weekly cleansing of ashpits by so limiting their capacity that inconvenience will be occasioned to occupiers if a weekly cleansing is not resorted to.

84. Every person who shall construct an ashpit in connection with a building shall construct such ashpit of flagging, or of slate, or of good brickwork, at least *nine inches* thick, and rendered inside with good cement or properly asphalted. Construction of ashpit.

He shall construct such ashpit so that the floor thereof shall be at a height of not less than *three inches* above the surface of the ground adjoining such ashpit, and he shall cause such floor to be properly flagged or asphalted.

He shall cause such ashpit to be properly roofed over and ventilated, and to be furnished with a suitable door in such a position and so constructed and fitted as to admit of the convenient removal of the contents of such ashpit, and to admit of being securely closed and fastened for the effectual prevention of the escape of any of the contents of such ashpit.

Construction of ashpits.—The points to be observed in the construction of ashpits do not materially differ from those which should be provided for in connection with fixed privy receptacles. The main consideration is that the contents shall be kept dry, so as to retard decomposition of organic substances as much as possible, while retained upon the premises.

85. A person who shall construct an ashpit in connection with a building shall not cause or suffer any part of such ashpit to communicate with any drain. Communication of ashpit with drain prohibited.

Drainage of ashpits.—See note to clause 79, *ante*, p. 191.

Movable ashpits.—Where the local authority wish to regulate the construction, etc., of movable ashpits (see note, p. 192), the following clause may be considered :—

A person shall not provide in connection with a building any movable ashpit, unless such ashpit be constructed of galvanized iron or other suitable impervious material of a sufficient strength and thickness, and be otherwise such as to satisfy the requirements of the following rules :— Construction of movable ashpits.

(*a.*) Such ashpit shall be provided with suitable handles and a properly fitting cover :

(*b.*) Such ashpit shall be of a capacity not exceeding *six cubic feet*, or of such less capacity as may be sufficient to contain all dust, ashes, rubbish and dry refuse which may accumulate during a period not exceeding *one week* upon the premises for which it is provided.

Position of cesspool in relation to buildings;

86. Every person who shall construct a cesspool in connection with a building shall construct such cesspool at a distance of *feet* at the least from a dwelling-house or public building, or any building in which any person may be, or may be intended to be employed in any manufacture, trade, or business.

in relation to sources of water supply;

87. A person who shall construct a cesspool in connection with a building shall not construct such cesspool within the distance of *feet* from any well, spring, or stream of water used or likely to be used by man for drinking or domestic purposes, or for manufacturing drinks for the use of man, or otherwise in such a position as to render any such water liable to pollution.

for purposes of cleansing.

88. Every person who shall construct a cesspool in connection with a building shall construct such cesspool in such a manner and in such a position as to afford ready means of access to such cesspool for the purpose of cleansing such cesspool, and of removing the contents thereof, and in such a manner and in such a position as to admit of the contents of such cesspool being removed therefrom, and from the premises to which such cesspool may belong, without being carried through any dwelling-house or public building, or any building in which any person may be, or may be intended to be employed in any manufacture, trade, or business.

Cesspool not to be connected with sewer.

He shall not in any case construct such cesspool so that it shall have, by drain or otherwise, any outlet into or means of communication with any sewer.

Position of cesspool.—A cesspool under a house is, in effect, prohibited as regards new houses by ss. 23 and 35 of the Public Health Act, 1875. But such a receptacle should not be placed within *fifty feet* at the least from any of such buildings as are mentioned in clause 86. In *Simmons* v. *Malling Rural District Council*, [1897] 2 Q. B. 433 ; 61 J. P. 502 ; 66 L. J. Q. B. 585 ; 77 L. T. 341 ; 43 W. R. 603 ; 13 T. L. R. 447, a byelaw in the terms of the model clause, and prescribing that distance, was held reasonable. From *sixty feet* to *eighty feet* ought to be regarded as the minimum distance which should be interposed between a cesspool and any well, spring, stream, or cistern from

which water is likely to be taken for drinking or domestic purposes, in order to prevent the pollution of the water. As regards cisterns, the principal danger, when the cistern is, as it always should be, above ground, is that the water may become contaminated by foul air escaping from the cesspool; and probably the only reason why cisterns are not referred to in the byelaw is that there are no means of preventing the construction or fixing of a cistern within any given distance from a cesspool after the cesspool itself has been completed. But as regards wells and running water, the danger of the percolation of foul liquids through the soil in case of defect in the cesspool has to be guarded against, and the importance of this cannot be overrated. It is, of course, extremely difficult to detect a leakage from a cesspool, although s. 47 (3) of the Public Health Act, 1875, renders liable to penalties any person who, in any urban district (and in any rural district where the section has been put in force by an order of the Local Government Board), allows the contents of any cesspool to overflow or soak therefrom. The defect is only too likely to continue until the occurrence of illness (perhaps in an epidemic form) causes special investigation to be made. The danger of percolation is also the main reason for the requirement in clause 86; but, apart from this, it is necessary that the cesspool should be at a sufficient distance from dwelling-houses, etc., to enable it to be ventilated without risk of nuisance. The requirements of clause 88 are similar to those prescribed by clauses 75 and 79 as regards privies. Where a cesspool can be drained there can be no sufficient reason for the cesspool. The best method of emptying a cesspool is to force the contents through a pipe or hose, by means of a pneumatic pump, directly into a water-tight covered van. This method avoids the causing of nuisance, and further prevents the pollution of the surface of the ground by the spilling of liquid and semi-liquid filth, which is inseparable from the old method of emptying by means of a bucket tied to the end of a rope. There should never be any question of carrying cesspool contents through a building. (See the model byelaw as to scavenging, *ante*, p. 25.)

89. Every person who shall construct a cesspool in connection with a building shall construct such cesspool of good brickwork in cement properly rendered inside with cement, and with a backing of at least *nine inches* of well puddled clay around and beneath such brickwork. Construction of cesspool.

He shall also cause such cesspool to be arched or otherwise properly covered over, and to be provided with adequate means of ventilation.

Construction of cesspools.—After what has been stated in connection with clauses 86—88, the requirements of the first part of this clause will not be considered unnecessarily stringent, the object being to secure the construction of the receptacle in such a manner as to prevent the pollution of the subsoil and of underground water supplies. The backing of clay puddle is also a support to the brickwork, which, when the cesspool is full, is subject to a great "thrust." As regards the latter part, proper means of ventilation are necessary in order to prevent foul air finding a passage through some fissure in the soil, or through the house drains, instead of directly into the open air, where by diffusion it may be rendered harmless.

Capacity of cesspools.—It will be seen that the model clauses as to cesspools do not, like those relating to other receptacles for filth (*e.g.*, clauses 71, 77, 78, 83), limit the size of the receptacle. For various reasons it would be found difficult to do this. But the model clauses at least avoid the serious mistake of prescribing a *minimum* size for cesspools.

Byelaws as to keeping waterclosets supplied with water.—Where the local authority have power under s. 23 (1) of the Public Health Acts Amendment Act, 1890, to make byelaws on this subject, such byelaws may be inserted, under a separate heading, between clauses 89 and 90 of this series. (For a form of byelaw, see Model Byelaws, vol. ii.)

With respect to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation.

90. In every case :—

Where, by a notice in writing in the form hereunto appended, or to the like effect, and signed by the clerk to the Council, and duly served upon or delivered to the owner of a building or part of a building erected after the * the Council shall certify that it has been represented to them that such building or part of a building is unfit for human habitation, and that, unless on or before such day as shall be specified in such notice, such owner, by a statement in writing under his hand or under the hand of his agent duly authorized in that behalf, and addressed to and duly served upon or delivered to the Council, shall show sufficient cause why such building or part of a building shall not be declared unfit for human habitation, or unless, on such day and at such time and place as shall be specified in such notice, such owner personally or by his agent duly authorized in that behalf shall attend before the Council and show sufficient cause why such building or part of a building shall not be declared unfit for human habitation, the Council will declare such building or part of a building unfit for human habitation, and direct that such building or part of a building shall be closed, and prohibit the use for human habitation of such building or part of a building until the same shall have been rendered fit for human habitation :

And where such owner shall fail to show sufficient cause why such building or part of a building shall not be declared unfit

* *Insert here either the words* "date on which the Local Government Acts came into force in the district" *or the words* "date of the confirmation of these byelaws."

for human habitation, and where, in consequence of such failure, the Council by their order, which shall be in writing under their seal in the form hereunto appended, or to the like effect, and shall be duly signed by their clerk, and which, or a copy of which shall be affixed in some conspicuous position in or upon such building or part of a building, may declare that such building or part of a building is unfit for human habitation, and may direct that, unless and until such building or part of a building shall have been rendered fit for human habitation, the same shall be closed, and the use thereof for human habitation shall be prohibited:—

A person shall not, after the date specified in such order and before such building or part of a building shall have been rendered fit for human habitation, knowingly inhabit or continue to inhabit, or knowingly cause or suffer to be inhabited such building or part of a building.

Form of Notice.

Borough or *Urban* or *Rural District of* .

To of .

Whereas by a statement in writing under the hand of Medical Officer of Health (*or Surveyor*) of the* , of which statement a copy is contained in the schedule hereunto annexed, it has been certified to the said Council that a certain building or part of a building situate at in the said district is unfit for human habitation;

And whereas it has been shown to the said Council that you are the owner of such building or part of a building;

Now, I , clerk to the said Council, do hereby give you notice that, unless on or before the day of 18 , by a statement in writing under your hand or under the hand of an agent duly authorized by you in that behalf, and addressed to and duly served upon or delivered to the said Council, you shall show to the said Council sufficient cause why such building or part of a building shall not be declared unfit for human habitation;

Or, unless you shall attend either personally or by an agent duly authorized in that behalf before the said Council at their office in on day the day of 18 , at o'clock in the noon and shall then and there show to the said Council sufficient cause why such building or part of a building shall not be declared unfit for human habitation;

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* "Town Council of the borough of "; *or* "Urban [*or* Rural] District Council of "; *as the case may be.*

The said Council, in pursuance of the powers conferred upon them in that behalf, will, by an order in writing under their seal, declare that such building or part of a building is unfit for human habitation, and direct that, unless and until such building or part of a building shall have been rendered fit for human habitation, the same shall be closed, and the use thereof for human habitation shall be prohibited.

Witness my hand this day of in the year one thousand eight hundred and .

Clerk to the .

SCHEDULE.

Copy of Certificate of .

Form of Order.

Borough or *Urban* or *Rural District of* .

To , of , and to all others whom it may concern:

WHEREAS it has been certified to us, the* , that a certain building or part of a building situate at in the said district is unfit for human habitation;

And whereas due notice of such certificate has been given to , the owner of such building or part of a building, and the said has failed to show sufficient cause why such building or part of a building shall not be declared unfit for human habitation;

Now we, the said Council, in pursuance of the powers conferred upon us in that behalf, do hereby declare that such building or part of a building is unfit for human habitation; and we do hereby direct that, unless and until such building or part of a building shall have been rendered fit for human habitation, the same shall be closed, and the use thereof for human habitation shall be prohibited.

Given under the common seal of the Council, this
(L.S.) day of , in the year one thousand eight hundred and .

Clerk to the .

Buildings unfit for habitation.—A byelaw with respect to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation, is expressly authorised by the terms of s. 157 (4) of the Public Health Act, 1875, and the model clause gives effect to the provision on the subject in a very satisfactory manner. It enables the district council to serve notice on the owner of any building or part of a building represented to them to be unfit for human habitation, informing him that, unless he shows cause to the contrary, they will close the building, or such part as may be in question, and prohibit the further use of it for human habitation until it has been rendered fit for occupation. A form of notice is

* See note, *ante*, p. 197.

attached. It contains a schedule in which a copy of the certificate on which the council have taken action will be served with the notice upon the owner. The clause also prescribes a form of order for closing the building, or part of a building, if the owner fails to show sufficient cause against this being done. If such an order is made, a copy of it should be affixed conspicuously upon the building or part of a building; and the last paragraph of the clause will then prevent the occupation, as well as the letting, of the premises for human habitation until it has been rendered fit for occupation.

Scope of the model byelaw.—A byelaw under s. 157 (4) of the Public Health Act, 1875, with regard to the closing of buildings which are unfit for habitation, can only be made to affect buildings erected after the times mentioned in the proviso to that section. The proviso enacts: "Provided that no byelaw made under this section shall affect any building erected in any place (which at the time of the passing of this Act [*i.e.*, 11th August, 1875] is included in an urban sanitary district) before the Local Government Acts came into force in such place, or any building erected in any place (which at the time of the passing of this Act is not included in an urban sanitary district) before such place becomes constituted or included in an urban district, or by virtue of any order of the Local Government Board subject to this enactment." This proviso gives effect to the decisions in *Brown* v. *Holyhead Local Board* (1862), 1 H. & C. 601; 32 L. J. Ex. 25; 7 L. T. (N.S.) 332; 27 J. P. 184; 11 W. R. 71; *Young* v. *Edwards* (1864), 33 L. J. M. C. 227; 11 L. T. (N.S.) 424; and *Burgess* v. *Peacock* (1864), 16 C. B. (N.S.) 624; 10 L. T. (N.S.) 617; 10 Jur. (N.S.) 803, which were to the effect that byelaws could not be made to affect buildings erected before the district was formed, and were decided under s. 34 of the Local Government Act, 1858, which was similar to s. 157 of the Public Health Act, 1875, except that it omitted the above proviso.

Notice.—A printed signature of the clerk to the local authority to notices under the Public Health Act, 1875, is sufficient within the meaning of s. 266 of the Act (*Brydges* v. *Dix* (1891), 7 T. L. R. 215).

Procedure under byelaw,—alternative.—Although a byelaw as to the closing of buildings which are unfit for habitation is clearly authorised by the statute, and there would seem to be a distinct advantage in including such a byelaw in any series made under s. 157 with respect to buildings, there are other means of closing buildings against habitation, both under the Public Health Act, 1875, itself, and under Part II. of the Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 70). Under s. 97 of the former Act, where a nuisance has been proved to exist, and the nuisance is such as to render any house or building (whether erected before or after the times mentioned in s. 157), in the judgment of a court of summary jurisdiction, unfit for human habitation, the court may prohibit the using thereof for that purpose, until, in its judgment, the house or building is rendered fit for habitation; and under s. 32 of the Act of 1890, proceedings may be taken by the local authority against the owner or occupier for closing any dwelling-house in their district which appears to them to be in a state so dangerous or injurious to health as to be unfit for human habitation. The Third Schedule to the Act applies for the purpose of such proceedings ss. 91, 94, 95 and 97 of the Public Health Act, 1875; so that an order of a court of summary jurisdiction must be obtained in order to close a building under this Act. In proceedings under the model byelaw, however, no order of a court is required in cases to which the byelaw applies.

As to the giving of notices, deposit of plans and sections by persons intending to lay out streets or to construct buildings; as to inspection by the Council; and as to the power of such Council to remove, alter, or pull down any work begun or done in contravention of the byelaws.

Notice of intention to lay out new street.

91. Every person who shall intend to lay out a street shall give to the Council notice in writing of such intention, which shall be delivered or sent to their clerk at his or their office, or to their surveyor at his or their office, and shall at the same time deliver or send, or cause to be delivered or sent to their clerk at his or their office, or to their surveyor at his or their office, a plan and sections of such intended street, drawn to a scale of not less than *one inch* to every *forty-four feet*.

Plans and sections to accompany notice.

Such person shall show on every such plan the names of the owners of the land through or over which such street shall be intended to pass, the intended level and width, the points of the compass, the intended mode of construction, the intended name of such street and its intended position in relation to the streets nearest thereto, the size and number of the intended building lots, and the intended sites, height, class, and nature of the buildings to be erected therein, and the intended height of the division and fence walls thereon, and the name and address of the person intending to lay out such street.

Such person shall sign such plan, or cause the same to be signed by his duly authorised agent.

Such person shall show on every such section the levels of the present surface of the ground above some known datum, the intended level and rate or rates of inclination of the intended street, the level and inclinations of the streets with which it is intended that such street shall be connected, and the intended level of the lowest floors of the intended buildings.

The deposit of plans by persons intending to erect buildings is dealt with in the next clause.

Places under local Acts.—Where s. 57 *et seq.* of the Towns Improvement Clauses Act, 1847, apply by virtue of the provisions of any local Act, clause 91 should be omitted.

Notices of intention to lay out streets or erect buildings.—There would appear to be no authority for a byelaw requiring that notice shall be given and plans be deposited not less than a specified time before one of the ordinary meetings of the local authority.

In *Hattersley* v. *Burr* (1866), 4 H. & C. 523; 14 L. T. (N.S.) 565, a byelaw requiring a month's notice to be given at one of the monthly meetings of the

board, was held to be unreasonable and bad, the reason for this, apparently, being that the court thought that the requirement of one month's notice to be given to the surveyor at one of the monthly meetings, which might operate so that nearly two months might elapse without the intending builder being able to do anything, was unreasonable (see *per* LUSH, J., in *Hall* v. *Nixon* (1875), L. R. 10 Q. B., at p. 160). But in the last-mentioned case, which is reported at L. R. 10 Q. B. 152 ; 39 J. P. 341 ; 44 L. J. M. C. 51 ; 32 L. T. (N.S.) 87 ; 23 W. R. 612, a byelaw requiring fourteen days' notice, with deposit of plans, before beginning to build, was held by the Queen's Bench to be reasonable and valid.

Service of notice.—By s. 267 of the Public Health Act, 1875, "notices, orders, and any other documents required or authorised to be served under this Act, may be served by delivering the same to or at the residence of the person to whom they are respectively addressed, or where addressed to the owner or occupier of premises by delivering the same or a true copy thereof to some person on the premises, or if there is no person on the premises who can be so served by fixing the same on some conspicuous part of the premises; they may also be served by post by a prepaid letter, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the notice order or other document was properly addressed and put into the post.

"Any notice by this Act required to be given to the owner or occupier of any premises may be addressed by the description of the 'owner' or 'occupier' of the premises (naming them) in respect of which the notice is given, without further name or description."

Where, however, the name of the owner or occupier can be ascertained, it will be the better plan not to rely on the permission given in the last paragraph of this section.

A summons may be served in the manner provided by this section (*R.* v. *Mead*, [1894] 2 Q. B. 124 ; 63 L. J. M. C. 128 ; 70 L. T. (N.S.) 766 ; 42 W. R. 442 ; 58 J. P. 448 ; 10 T. L. R. 413).

In *Mason* v. *Bibby* (1864), 33 L. J. M. C. 105 ; 2 H. & C. 881 ; 9 L. T. (N.S.) 692 ; 12 W. R. 382 ; 10 Jur. (N.S.) 519 ; 28 J. P. 121, where the Public Health Act, 1848 (11 & 12 Vict. c. 63), s. 150, provided that in all cases in which any notice was required to be given to the owner or occupier of any premises, it should be sufficient to address the notice to them by the description of the "owner" or "occupier" of the premises, and that the notice should be served either personally or by delivering the same to some inmate of the owner or occupier's place of abode, it was held that service of a notice by delivering it to the clerk of an owner at his place of business was sufficient, s. 150 being in aid of service of notices : MARTIN, B., observing that a place of business was a place of abode, and a clerk an inmate under the section. In *Newport (Mayor, etc.)* v. *Levy* (1893), 57 J. P. 199, it was held that a demand of a rate under the Public Health Act, 1875, was sufficiently served by being delivered at the ratepayer's chief place of business, though it was not part of the premises rated and the notice was not proved to be served personally on the ratepayer.

Duty of local authority as regards approval or disapproval of plans.—The local authority must either approve or disapprove of the plans on their merits, and are not warranted in enquiring into the title of the intending builder (*Ex parte Crosby* (1877), 41 J. P. 740).

The local authority are not entitled to object to plans unless they infringe some byelaw or statute (*R.* v. *Tynemouth Rural District Council*, [1896] 2 Q. B. 451 ; 60 J. P. 804 ; 65 L. J. Q. B. 545 ; 75 L. T. 86 ; 12 T. L. R. 536. In this case the respondents had refused to approve certain plans for laying out a building estate upon the grounds that the plans did not show that the house drains ended in any sewers, nor any street or outfall sewers, and the building owner refused to construct an outfall sewer at his own expense. The Court of Appeal held, affirming the judgment of the Queen's Bench Division, that the local authority were not entitled to attach such a condition to their approval. The local authority cannot refuse to approve of building plans because they object to the site (*R.* v. *Preston* (*Corporation of*) (1887), 3 T. L. R. 665), nor on the ground that the class of building proposed to be erected would, in their opinion, be injurious to the character of the neighbourhood as a place of residence, and would depreciate the value of other buildings and property in the neighbourhood (*R.* v. *Mayor of Newcastle-upon-Tyne* (1889), 53 J. P. 788 ; 60 L. T. (N.S.) 963 ; 5 T. L. R. 467).

Conditional approval of plans.—The only way by which a local authority can enforce a condition that a building shall be removed within a fixed time where their approval of plans is subject to such a condition, is by taking a bond with sureties for the due performance of the condition (see *per* LUSH, J., in *Parsons* v. *Timewell* (1879), 44 J. P. 296). One L., who was desirous of converting his dwelling-house into a lock-up shop and warehouse, applied to the local authority for permission, which was granted on condition that if again used as a dwelling-house the building should be altered so as to leave an open space at the back. The premises were bought by the respondent in 1878, and he knew nothing of the condition. In 1883 it was let for five years, and was latterly used as a restaurant. The respondent was convicted under a local Act for unlawfully permitting the building to be used as a dwelling-house, and the conviction was upheld on appeal (*West Hartlepool Commissioners* v. *Levy* (1886), 50 J. P. 196).

Remedy in case of unwarranted refusal to approve.—If the local authority refuse to approve plans which are in accordance with the byelaws submitted to them, the proper remedy for the person submitting the plans is to apply for a prerogative writ of *mandamus* (*Smith* v. *Chorley District Council*, C. A., [1897] 1 Q. B. 678 ; 61 J. P. 340 ; 66 L. J. Q. B. 427 ; 76 L. T. 637 ; 13 T. L. R. 327 ; 45 W. R. 417), or to go on with his building.

Power to proceed with work without approval of plans.—Assuming that notice of intention to build has been duly given, and plans have been deposited, there is nothing to prevent the builder at once beginning to build without waiting for his plans to be approved, but he will do so at his peril in the event of the building not being in conformity with the byelaws. Section 158 of the Public Health Act, 1875, requires the local authority to signify their approval or disapproval within one month ; "and if the work is commenced after such notice of disapproval, or before the expiration of such month without such approval, and is in any respect not in conformity with any byelaw of the urban authority, the urban authority may cause so much of the work as has been executed to be pulled down or removed." It will thus be seen that the section does not apply unless the building which has been erected without the approval of the local authority to the plans is not in conformity with any byelaw.

The local authority are bound to approve or disapprove of plans submitted to them within a month, and if they fail to do so they cannot afterwards object to the building according to the plan (*Masters* v. *Pontypool Local Board* (1878), 9 Ch. D. 677 ; 47 L. J. Ch. 797), and they are precluded from recovering any penalty (*Clark* v. *Bloomfield* (1885), 1 T. L. R. 323 ; *cf.* also *Slee* v. *Bradford Corporation* (1863), 4 Giff. 262 ; 27 J. P. 612 ; 8 L. T. (N.S.) 491 ; 9 Jur. (N.S.) 815 ; *Cumber* v. *Bournemouth Improvement Commissioners* (1894), 71 L. T. 10).

Effect of not adhering to plans as approved.—If the person intending to lay out a new street substantially departs from the plan which has been deposited and approved without having sent in fresh plans, he renders himself liable to a penalty under the byelaws (*cf. James* v. *Masters*, [1893] 1 Q. B. 355).

Power of district council to retain plans.—A byelaw by which the district council would take power to retain plans and sections submitted to them under this or the succeeding clause, would probably not be confirmed by the Local Government Board. The decision in the case of *Gooding* v. *Ealing Local Board* (1883), 1 T. L. R. 62 ; 1 C. & E. 359, would seem to show that under certain circumstances a district council might retain the plans of proposed streets or buildings ; but a byelaw purporting to reserve any such power would seem to go beyond the terms of s. 157 of the Public Health Act, 1875. The byelaws, however, might require plans and sections to be deposited in duplicate. In *Ballymena Commissioners* v. *M'Kay* (1886), Ir. Rep. 17 Ch. D. 605, a byelaw requiring every person who shall intend to erect a building, or to rebuild any existing house, to give notice in writing of such intention accompanied by a plan in duplicate, was held to be reasonable and *intra vires*. If plans in duplicate were required, the district council would, probably, experience no difficulty in securing that the duplicates were permanently left with them. All that is necessary is that the words "in duplicate" should be inserted in the byelaws 91 and 92, after the word "drawn" in the first paragraph of each clause.

Power to withdraw approval of plans.—It occasionally happens that plans of new streets or buildings are approved by the local authority, and a very long time elapses after such approval is given without any attempt being made to carry out the plans. It would seem that in such cases the work might at any moment be commenced and carried out, notwithstanding that the byelaws which were in force when approval was given might have been repealed, and different provisions substituted, by later byelaws. Under these circumstances it is not surprising that local authorities should wish, if possible, to limit the period within which their approval of plans shall be operative. There would seem, however, to be no authority under which the matter could be dealt with by means of a byelaw or otherwise. In *Slee* v. *Corporation of Bradford* (*ubi supra*), the Court of Chancery restrained the defendants by injunction from interfering with the erection of a factory according to the approved plans.

Before approving plans the local authority should satisfy themselves that the intending builder has power to carry out what is required by the byelaws. If they neglect to do this, they cannot afterwards proceed for a penalty for a breach of them. Thus, in *Thompson* v. *Failsworth Local Board* (1882), 46 J. P. 21, the appellant deposited a plan of proposed buildings and showing a new street ten yards wide. The board sanctioned the houses, and they were built, and some years afterwards he was summoned for disobeying the byelaw by not leaving space ten yards wide for a street. The appellant's land, in fact,

only extended nine feet in front of the houses, but this was not known to the board at the time. The justices convicted the appellant, but the Queen's Bench Division quashed the conviction on the ground that the local board ought to have seen beforehand that what the defendant proposed was practicable.

Notice of intention to erect a building.

92. Every person who shall intend to erect a building shall give to the Council notice in writing of such intention, which shall be delivered or sent to their clerk at his or their office, or to their surveyor at his or their office, and shall at the same time deliver or send, or cause to be delivered or sent to their clerk at his or their office, or to their surveyor at his or their office complete plans and sections of every floor of such intended building, which shall be drawn to a scale of not less than *one inch* to every *eight feet*, and shall show the position, form, and dimensions of the several parts of such building, and of every watercloset, earthcloset, privy, ashpit, cesspool, well, and all other appurtenances and in which the building shall be so described as to show whether it is intended to be used as a dwelling-house or otherwise.

Plans and sections to accompany notice.

Such person shall at the same time deliver or send, or cause to be delivered or sent to the clerk to the Council at his or their office, or to their surveyor at his or their office, a description in writing of the materials of which it is intended that such building shall be constructed, and of the intended mode of drainage and means of water supply.

Such person shall at the same time deliver or send, or cause to be delivered or sent to the clerk to the Council at his or their office, or to their surveyor at his or their office, a block plan of such building which shall be drawn to a scale of not less than *one inch* to every *forty-four feet*, and shall show the position of the buildings and appurtenances of the properties immediately adjoining, the width and level of the street in front, and of the street, if any, at the rear of such building, the level of the lowest floor of such building, and of any yard or ground belonging thereto.

Such person shall likewise show on such plan the intended lines of drainage of such building, and the intended size, depth, and inclination of each drain; and the details of the arrangement proposed to be adopted for the ventilation of the drains.

Scope of clause 92.—Clause 92 only applies to persons "intending to erect buildings"; but as to the circumstances which will bring any intended works

within the operation of the clause, the case of *James* v. *Wyrill*, (1884) 51 L. T. (N.S.) 237 ; 48 J. P. 228 *n.*, 725, may be referred to. In that case the appellant, in enlarging a public-house, built partly on an old garden wall, and erected some additional rooms, which he connected with the public-house. He gave no notice to the local authority of the intended building, as he did not think it was a "new building." The magistrate convicted and imposed a penalty, and also a penalty for every day the building should remain. Held, by the Queen's Bench Division, affirming the conviction, that it was a question of fact for the magistrate whether the alterations amounted to a new building, and that he had found as a fact that they did, and, further, that the penalty was payable in addition to the penalty per day, although the information against the appellant was only for not having given notice of intention to build accompanied by plans.

In *Slee* v. *Corporation of Bradford* (1863), 4 Giff. 262 ; 27 J. P. 612 ; 8 L. T. (N.S.) 491 ; 9 Jur. (N.S.) 815, a byelaw requiring that plans of new buildings should also show the position of such buildings with reference to existing buildings, was held by the Court of Chancery to be valid.

The notes on clause 91 should be referred to.

"Elevations" of buildings.—The local authority cannot, by means of a byelaw under s. 157 of the Public Health Act, 1875, require "elevations" of intended new buildings to be submitted. The section referred to only mentions "plans and sections."

Notice before commencing new street, new building, etc. ;

93. Every person who shall intend to lay out or construct a street, or to erect a building, or otherwise to execute any work to which any of the byelaws relating to new streets and buildings may apply, shall before beginning to lay out or construct such street, or to erect such building, or to execute such work, deliver or send, or cause to be delivered or sent to the surveyor of the Council at his or their office notice in writing, in which shall be specified the date on which such person will begin to lay out or construct such street, or to erect such building, or to execute such work.

before covering up sewer, drain, or foundation.

Such person shall also, before proceeding to cover up any sewer or drain, or any foundation of a building, deliver or send, or cause to be delivered or sent to the surveyor of the Council at his or their office notice in writing, in which shall be specified the date on which such person will proceed to cover up such sewer, drain, or foundation.

Failing notice, work may be cut into, laid open, or pulled down.

If such person neglect or refuse to deliver or send any such notice, or to cause any such notice to be delivered or sent to such surveyor, and if such surveyor, on inspecting any work in connection with such street or building, or such other work as aforesaid, finds that such work is so far advanced that he cannot ascertain whether anything required by any byelaw relating to new streets or buildings has been done contrary to

such byelaw, or whether anything required by such byelaw to be done has been omitted to be done, and if, within a reasonable time after such survey or inspection, such person shall, by notice in writing under the hand of such surveyor, be required, within a reasonable time which shall be specified in such notice, to cause so much of such work as prevents such surveyor from ascertaining whether anything has been done or omitted to be done as aforesaid to be cut into, laid open, or pulled down to a sufficient extent to enable such surveyor to ascertain whether anything has been done or omitted to be done as aforesaid, such person shall within the time specified in such notice cause such work to be so cut into, laid open, or pulled down.

Effect of clause 93.—Clauses 91 and 92 require that notice of intention to lay out a street or erect a building shall be sent to the local authority accompanied by plans and sections and such information as will enable the authority to give due consideration to the plans. Section 158 of the Public Health Act, 1875, gives them one month in which to express approval or disapproval of the intended work. There is nothing to prevent the work being proceeded with at once without waiting for the decision of the authority, although, if this course is taken, the person executing the work does so at his own risk. But in any case, if the work is to be properly supervised, they will require to know when it is to be commenced, and, in regard to what may be termed underground work, to be in a position to have it inspected before it is covered up. This is secured by the first two paragraphs of the present clause, and the third paragraph gives them most effectual control in the matter by enabling the surveyor, if it be necessary and if due notice has not been given, to order the work to be uncovered or pulled down to a sufficient extent for him to ascertain that nothing has been done, or omitted to be done, contrary to the byelaws. This power, however, is one which should be exercised with some caution. It will be noticed, that although for reasons stated at p. 85, the construction of *sewers* is not regulated by the model byelaws, the local authority will, under this clause, receive notice which will make it possible to ensure inspection of any sewer that may be put in by a person laying out a new street. In the case of *Hall* v. *Nixon* (1875), 10 L. R. Q. B. 152 ; 32 L. T. (N.S.) 87, *fourteen days'* notice to the surveyor before beginning to build was held reasonable.

Notice of contravention of byelaw

94. In every case :—

Where a person who shall lay out or construct a street, or shall erect a building, or shall execute any other work to which the byelaws relating to new streets and buildings may apply, shall, at any reasonable time during the progress or after the completion of the laying out or construction of such street, or the erection of such building, or the execution of such work, receive from the surveyor of the Council notice in writing specifying any matters in respect of which the laying out or

construction of such street, the erection of such building, or the execution of such work may be in contravention of any byelaw relating to new streets or buildings, and requiring such person within a reasonable time, which shall be specified in such notice, to cause anything done contrary to any such byelaw to be amended, or to do anything which by any such byelaw may be required to be done but which has been omitted to be done :—

Such person shall, within the time specified in such notice, comply with the several requirements thereof so far as such requirements relate to matters in respect of which the laying out or construction of such street, the erection of such building, or the execution of such work may be in contravention of any such byelaw.

Notice of compliance with requirements of Council.

Such person, within a reasonable time after the completion of any work which may have been executed in accordance with any such requirement, shall deliver or send, or cause to be delivered or sent to the surveyor of the Council at his or their office notice in writing of the completion of such work, and shall, at all reasonable times within a period of days after such notice shall have been so delivered or sent, afford such surveyor free access to such work for the purpose of inspection.

Surveyor to have access to the work.

Notices in case of contravention of byelaws.—This clause enables the local authority, through their surveyor, to require work done contrary to the byelaws to be put right. *Seven days* should be a sufficient period to enable the work done according to the surveyor's requirements to be inspected by him ; and it would be unreasonable to keep the work open longer than was necessary. Where the requirements of the local authority are not complied with, the provisions of clause 99 will be applicable.

Surveyor to have access to works during progress.

95. Every person who shall lay out or construct a street, or shall erect a building, or shall execute any other work to which any of the byelaws relating to new streets and buildings shall apply, shall, at all reasonable times, during the laying out or construction of such street, or the erection of such building, or the execution of such work, afford the surveyor of the Council free access to such street, building, or work for the purpose of inspection.

Works in progress.—To ensure compliance with the byelaws all work to which they apply should be properly inspected from time to time as it proceeds, and to a great extent the usefulness of the preceding clause depends on this. See also clauses 96 and 97.

Certificate of sanitary officer before occupation.

95a. A person shall not let or occupy any new dwelling-house until the drainage thereof shall have been made and completed, nor until such dwelling-house shall, after examination, have been certified by an officer of the Council, authorised to give such certificate, to be, in his opinion, in every respect fit for human habitation.

Certificate of fitness of house for occupation.—Copies of this clause, which is not included in the model series as issued in 1877, can be obtained on application to the Local Government Board. In support of the byelaw, see *Horsell* v. *Swindon Local Board* (1888), 52 J. P. 597 ; 58 L. T. 732, in which it was held that a similar byelaw made under s. 32 of the Local Government Act, 1858 (21 & 22 Vict. c. 98), was reasonable in itself, and, moreover, was not inconsistent with s. 157 of the Public Health Act, 1875. CAVE, J., said it was "a very fit and proper provision for the local board to make, in order to provide against houses being inhabited which were unfit for habitation."

In *Southend* (*Mayor of*) v. *Ramuz*, Times, 6th August, 1895, it was held that a byelaw providing that if any part of a building is occupied before the time limited, the building as a whole, or the remaining parts of it, shall never be occupied in any way, or at any time thereafter, or even during the continuance of the first improper occupation, would be invalid.

Notice of completion of street.

96. Every person who shall lay out or construct a street shall, within a reasonable time after the completion of the laying out or construction of such street, deliver or send, or cause to be delivered or sent to the surveyor of the Council, at his or their office, notice in writing of the completion of the laying out or construction of such street, and shall, at all reasonable times, within a period of days after such notice shall have been so delivered or sent, afford such surveyor free access to such street for the purpose of inspection.

Surveyor to have access to the work.

Notice of completion of building.

97. Every person who shall erect a building shall, within a reasonable time after the completion of the erection of such building, deliver or send, or cause to be delivered or sent to the surveyor of the Council, at his or their office, notice in writing of the completion of the erection of such building, and shall, at all reasonable times, within a period of days after such notice shall have been so delivered or sent, and before such building shall be occupied, afford such surveyor free access to every part of such building for the purpose of inspection.

Surveyor to have access to the work.

Inspection after completion of works.—The time during which the surveyor is to have access to a new street or building, after its completion,

should not be longer than is reasonably necessary to admit of a final inspection being made by him. As a rule, *seven days* should be sufficient for this purpose. In connection with the above two clauses, see clauses 94 and 99. The power conferred by the byelaw last mentioned will not, of course, be resorted to, except where the alternative method provided for by clause 94 fails. The notes on clause 99 should be carefully considered before any action is taken under it. Where the surveyor proceeds under clause 94, access for purposes of inspection after defects have been remedied will be obtained under the last paragraph of that clause, even though the time prescribed by clause 96 or clause 97 may have expired.

Byelaws as to the alteration of buildings.—Where the local authority have power to make byelaws as to the alteration of buildings under s. 23 (4) of the Public Health Acts Amendment Act, 1890, such byelaws may be inserted, under appropriate headings, between clauses 97 and 98 of this series. Clauses 98 and 99 should then have separate headings ("Penalties" and "As to the power of the council to remove, alter, or pull down any work begun or done in contravention of the byelaws"), and so much of the heading on p. 200 as will thus become unnecessary should be omitted. Clause 99 also will itself require slight modification (see note on that clause). For forms of byelaws, see Model Byelaws, vol. ii.

Penalties.

98. Every person who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of , and in the case of a continuing offence to a further penalty of for each day after written notice of the offence from the Council:

Provided, nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment as a penalty of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalties.—The district council may be recommended, in the case of this important series, to provide for the imposition, where necessary, of the maximum penalties authorised by s. 183 of the Public Health Act, 1875, viz., *five pounds*, and *forty shillings*. The second paragraph of the clause provides for cases where the circumstances do not call for the maximum penalties, and must be retained even if sums less than five pounds and forty shillings are inserted (see the terms of the section mentioned).

Removal, alteration or pulling down of work in contravention of byelaws.

99. If any work to which any of the byelaws relating to new streets and buildings may apply be begun or done in contravention of any such byelaw, the person by whom such work shall be so begun or done, by a notice in writing, which shall be signed by the clerk to the Council, and shall be duly served upon or delivered to such person, shall be required on or before

such day as shall be specified in such notice by a statement in writing under his hand or under the hand of an agent duly authorised in that behalf, and addressed to and duly served upon the Council, to show sufficient cause why such work shall not be removed, altered, or pulled down; or shall be required on such day and at such time and place as shall be specified in such notice to attend personally or by an agent duly authorised in that behalf before the Council and show sufficient cause why such work shall not be removed, altered, or pulled down.

If such person shall fail to show sufficient cause why such work shall not be removed, altered, or pulled down, the Council shall be empowered, subject to any statutory provision in that behalf, to remove, alter, or pull down such work.

Removal of works made contrary to byelaws.—Where byelaws as to the alteration of buildings are inserted (see note on p. 209), this clause should be altered so as to apply only to clauses 3—97 of the model series. The power to remove, alter, or pull down any work begun or done in contravention of byelaws under s. 157 of the Public Health Act, 1875, is by that section made subject to the provisions of the Act (see s. 158). Paragraph 2 of this clause is framed accordingly. In *Southend (Mayor of)* v. *Ramuz*, Times, August 6th, 1895, which was an action brought to obtain an injunction to restrain the defendant from permitting premises erected by him to be occupied until they had been completed according to the byelaws, the defendant had complied with the byelaws by providing a sufficient air space in the rear of each building. He, however, let the rooms in the buildings separately to be used as lock-up shops, and these shops were cut off from access to the air space. ROMER, J., dismissed the action on the ground that the buildings had, in fact, been completed according to the approved plans, and if there was any subsequent infringement of the byelaws by the defendant the plaintiffs had their remedy under the byelaws. The power to remove, alter, or pull down work is obviously one to be applied with caution, and it is only reasonable that before it is exercised the person affected should have an opportunity of being heard. The decisions of the courts, indeed, constitute this a condition precedent to the exercise of the power. Thus, in *Hopkins* v. *Smethwick Local Board* (1890), 24 Q. B. D. 712; 59 L. J. Q. B. 250; 62 L. T. (N.S.) 783; 54 J. P. 693; 38 W. R. 499; 6 T. L. R. 286, Lord ESHER, M.R., said, in the Court of Appeal, "the power which the local board exercised to enter on the property of the plaintiffs and pull down the buildings they had erected is a highly penal one. Those who exercised such a power are bound to act strictly within it . . . it would be contrary to fundamental justice to allow that course to be taken without giving the owner notice and an opportunity to show cause." See also *Cooper* v. *Wandsworth District Board of Works* (1864), 14 C. B. (N.S.) 180; 32 L. J. C. P. 185; 9 Jur. (N.S.) 1155; 8 L. T. (N.S.) 278; 11 W. R. 646, and *Masters* v. *Pontypool Local Board* (*ante*, p. 203). The decisions in both these cases were approved in *Hopkins* v. *Smethwick Local Board*, *ubi supra*; *cf. Attorney-General* v. *Hooper*, [1893] 3 Ch. 483; 63 L. J. Ch. 18; 69 L. T. (N.S.) 340; 57 J. P. 564; 8 R. 535.

Where a local authority are entitled to pull down a building erected in contravention of their byelaws, they may do so in any way most convenient to themselves, provided they do not do so in a manner that is dangerous (*Jagger* v. *Doncaster Rural Sanitary Authority* (1890), 54 J. P. 438). In this case there had been an excess in pulling down, but as the damage was inappreciable, the defendants were held not liable.

If the local authority have failed to signify their disapproval of the plans within one month from deposit they cannot afterwards pull down the building erected in accordance with them (*Clark* v. *Bloomfield*, *ante*, p. 203).

Repeal of Byelaws.

100. From and after the date of the confirmation of these byelaws, the byelaws relating to new streets and buildings which were made on the day of in the year one thousand eight hundred and by the and were confirmed on the day of in the year one thousand eight hundred and by [one of Her Majesty's Principal Secretaries of State] [the Local Government Board] shall be repealed, except as regards as any work commenced before the date of the confirmation of this byelaw, or any work not so commenced, but of which plans shall either have been approved by the Council before such date, or have been sent to the Surveyor or Clerk to the Council one month at least before such date, and shall not have been disapproved by the Council. Repeal.

Repeal of byelaws.—If there are in force in the district any byelaws as to new streets or buildings which the district council are desirous of repealing, the above clause should be completed and added to the series. The latter part of the clause will keep alive the repealed byelaws as regards work commenced or plans approved before the date of the confirmation of the byelaw. In an urban district the local authority had, in 1877, made byelaws for the regulation of new streets and new buildings, and M., an intending builder, had submitted plans under them which were approved. Some of the plans were carried into execution by M. In 1893 the existing byelaws were rescinded, and new ones duly issued in their place. In 1896 M. intimated to the local authority that he intended to begin building some more houses in accordance with the plans approved under the old byelaws. The local authority sought an injunction in the County Palatine Court of Lancaster to restrain him from so doing. HALL, V.C., dismissed the action on the ground that the plaintiffs were attempting to make a byelaw retrospective, which was not intended to be (*Withington Urban District Council* v. *Moore* (1896), 60 J. P. 408). By the adoption of clause 100 of the model series, however, any doubt as to the byelaws which will govern in a case where a building may be commenced or plans may be approved before the confirmation of new byelaws, will be obviated. The clause does not expressly declare the new byelaws to be wholly inapplicable in such a case ; and probably the effect is merely to prevent their

applying in any respect in which they may be inconsistent with the old byelaws. The provision that the old byelaws shall apply also where plans have been sent in one month at least before the byelaws are confirmed, and have not been disapproved by the council, accords in principle with the enactment as to the approval of plans in s. 158 of the Public Health Act, 1875. If this clause is not included in the series submitted to the Local Government Board for approval, it should be stated whether or not there are any byelaws in force upon the subject.

SERIES V.

MARKETS.

MARKETS.

MEMORANDUM.

By section 167 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), it is enacted that an Urban Authority may, with respect to any market belonging to them, make byelaws for any of the purposes mentioned in section 42 of the Markets and Fairs Clauses Act, 1847, so far as those purposes relate to markets. Printed copies of any byelaws so made shall be conspicuously exhibited in the market.

Section 42 of the Markets and Fairs Clauses Act, 1847 (10 Vict. c. 14), is in the following terms:—

"The undertakers [Urban Sanitary Authority] may from time to time make such byelaws as they think fit for all or any of the following purposes; (that is to say),

" [1.] For regulating the use of the market place, . . . and the buildings, stalls, pens, and standings therein, and for preventing nuisances or obstructions therein, or in the immediate approaches thereto:

" [2.] For fixing the days and the hours during each day on which the market . . . shall be held:

" [3.] For inspection of the slaughter-houses, and for keeping the same in a cleanly and proper state, and for removing filth and refuse at least once in every twenty-four hours, and for requiring that they be provided with a sufficient supply of water, and preventing the exercise of cruelty therein:

" [4.] For regulating the carriers resorting to the market, . . . and fixing the rates for carrying articles carried therefrom within the limits of the special Act:*

* That is, within the limits of the district. See s. 316 of the Public Health Act, 1875.

"[5.] For regulating the use of the weighing machines provided by the undertakers [Urban Sanitary Authority], and for preventing the use of false or defective weights, scales, or measures:

"[6.] For preventing the sale or exposure for sale of unwholesome provisions in the market."

Of the above-mentioned purposes the Board think that to those enumerated in the first, second, and fourth paragraphs of section 42 of the 10 Vict. c. 14, byelaws may be generally rendered applicable. They anticipate that some difficulty will be experienced in any attempt to make byelaws with regard to the purposes specified in the third, fifth, and sixth paragraphs. The slaughter-houses as to which byelaws are authorised by the third paragraph are apparently the slaughter-houses to which sections 17—20 of the 10 Vict. c. 14 relate. Those sections, however, have not been incorporated with the Public Health Act, 1875, and where, under section 169 of that Act, the Sanitary Authority exercise their power of providing slaughter-houses, any byelaws which may be required should be made under the last-mentioned enactment.

Byelaws as to slaughter-houses, weighing machines, and unwholesome provisions.

On reference to the clauses (21 to 30) of the 10 Vict. c. 14, with respect to weighing goods and carts, it will be seen that the statute itself provides very fully for the regulation of the use of the weighing machines.

The Board are disposed to think that the practical advantage which may be anticipated from the endeavour to supplement these provisions by byelaws under the fifth paragraph of section 42 will hardly compensate for the possible complications which may arise out of any conflict between the regulations prescribed by the byelaws, and those imposed by the express terms of the statute.

Again, for the prevention of the use of false or defective weights, scales, or measures, there appears to be ample provision both in the 10 Vict. c. 14, and in other statutes. By section 21 of the 10 Vict. c. 14, the Sanitary Authority are required to keep in the weighing houses or places proper weights, scales, and measures, according to the standard weights and measures for the time being, for weighing the commodities sold in the market place. The Sanitary Authority are also required by section 24 to keep machines and weights for the purpose of weighing carts in which goods are brought for sale. The use of all these machines, weights, scales, and measures,

will be under the control of persons appointed by the Sanitary Authority. Buyers may insist upon articles offered for sale being weighed or measured by the weights and scales, or measures, of the Sanitary Authority, and generally it appears that the 10 Vict. c. 14 provides adequate security against the fraudulent practices which byelaws under the fifth paragraph of section 42 might be intended to check.

The sixth paragraph authorises byelaws for preventing the sale or exposure for sale of unwholesome provisions in the market. Having regard, however, to section 15 of the 10 Vict. c. 14, incorporated with the 38 & 39 Vict. c. 55, by section 167, and to the stringent provisions of sections 116—119 of the latter statute, the Board think that byelaws upon this subject will be unnecessary.

Tolls leviable by urban authority.

It should be observed that section 167 of the 38 & 39 Vict. c. 55, provides that all tolls leviable by an Urban Authority shall be approved by the Local Government Board. Their approval, however, is not required in the case of stallages and rents.

JOHN LAMBERT,
Secretary.

Local Government Board,
25th July, 1877.

Local authorities competent to adopt the byelaws.—It will be seen from the terms of s. 167 of the Public Health Act, 1875, that byelaws with respect to a market can only be made under that enactment by a local authority having a market "belonging to them." Where the market does not belong to the local authority there is no power under this section for the regulation of the market by means of byelaws, even though the owner of the market rights assents to this being done. The power to make byelaws is, in terms, further limited to urban district councils, although, assuming a rural district council to have been invested with the necessary urban powers, and to have provided a market, they too could make byelaws. It is, however, unlikely that a rural district council would require to make byelaws under s. 167. It is stated in the final report of the Commissioners on Market Rights and Tolls, at p. 9, that the Local Government Board had never exercised the power of investing a rural authority with power to provide markets, partly because they have very rarely been asked to do so, partly because the view of the Board has been that the object of s. 276 is that a rural authority might be invested with extended sanitary powers rather than powers of town government, and that if powers of town government were required it would be better that an urban authority itself should be constituted. There would be difficulties, too, in actually conferring market powers upon rural authorities even if the Board were willing to do so. For instance, the power would probably be required for a portion only of the rural district where there was a small town, and the salaries of officers, which would be one of the expenses which the rural authority would incur, could not be charged merely upon that portion of the district, but would, under s. 229, be a charge upon the whole district.

It may be as well to mention here that local authorities have no power under the Public Health Act, 1875, to establish or acquire fairs as distinguished from markets. A market, in its strictly legal aspect, may be defined as an authorised public concourse of buyers and sellers of commodities meeting at a place, more or less strictly limited or defined, at an appointed time. A fair has been described as a larger market. Thus, in Comyn's Digest, it is said, "Every fair is a market, but not *é contra*; therefore, when any statute speaks of a fair, a market should also be comprehended." But not *vice versâ*. The specific difference between a fair and a market appears to be that a fair is held less frequently; it generally extends over a longer continuous period, and is of a more miscellaneous character than a market. (And see, also, as to what is a fair, *Cooper* v. *Collins* (1893), 57 J. P. 248; 68 L. T. 450; 5 R. 256; 17 Cox C. C. 647; 9 T. L. R. 250.) The Public Health Act, 1875, s. 167, expressly provides that the Markets and Fairs Clauses Act, 1847, shall be incorporated in so far as the same relates to markets, and therefore the powers of the local authorities do not extend to fairs. This has led to difficulties, for in many cases the owners of rights in markets and fairs have been willing to part with the whole of them to the local authority, but have not been willing to part merely with the market rights. They have in some cases sold or granted leases of rights in markets and fairs to the local authorities, and questions have arisen as to the validity of those grants. The opinion of the law officers was taken in one case with regard to that question, and they advised that the local authority had, in the first place, no power to take a lease or conveyance of rights in fairs; and, secondly, that unless the market rights and the rights as to fairs could be severed in the conveyance or lease, the deed would be void altogether. (Final Report of Commissioners on Market Rights and Tolls, pp. 2, 74, and Evidence, vol. ii., Q. 29, 30.)

A question has arisen as to the power of local authorities to make byelaws and levy tolls, etc., where the market is held in streets, and a market place has not been provided. The difficulty suggested was this, that the Act enables them to provide a market place, and then goes on to say that they may take stallages, rents, and tolls in respect to the use by any person of such market, and that therefore, unless they provided a market place, they could not take tolls in respect of it, and that the provision of a market place was something different from merely allowing a market to take place in a street. The opinion of the law officers was taken upon the question, and they advised that the local authority might deal with such markets under the Public Health Act, 1875, notwithstanding the express provision of s. 31 of the Markets and Fairs Clauses Act, 1847, that the market authority are not to demand or receive any stallage, rent, or toll until the market place, in respect of the use of which the same is demanded, is completed and fit for the use of the persons resorting to it. The law officers said that the question was one of some difficulty, but that they thought that if the market was in a fixed place, or if it was acquired for purposes connected with the erection of a market place by the local authority, they were empowered to take such a market under that Act, and to deal with it by means of byelaws and by the imposition of tolls. (Final Report of the Commissioners on Market Rights and Tolls, p. 10, and Evidence, vol. ii., Q. 43.)

Municipal corporations frequently hold markets by charter or by prescription, and the law officers have advised that in such cases they can make byelaws and substitute fresh tolls under s. 167 of the Public Health Act, 1875, in respect to markets so held. The section enables an urban authority to make byelaws "with respect to *any* market belonging to them," and the whole

section relates to powers enabling an urban authority to establish or regulate markets; and the law officers considered that, having regard to that, it could be done, provided that the tolls were not increased beyond what was otherwise lawful. (Evidence before the Royal Commission on Market Rights and Tolls, vol. vii., Q. 45, 46.)

Scope of model byelaws.—As indicated in the memorandum above, the model series of byelaws for the regulation of markets contains no clauses as to slaughterhouses, or weighing machines in connection with a market, or the sale of unwholesome provisions therein. The reasons why no byelaws on these subjects are suggested are sufficiently explained in the memorandum. The regulation of weights and measures is the subject of specific legislation in the Weights and Measures Acts, 1878 to 1892 (41 & 42 Vict. c. 49; 52 & 53 Vict. c. 21; 55 & 56 Vict. c. 18). Without referring more in detail to these enactments, it may be observed that provisions specially applicable to markets are contained in 22 & 23 Vict. c. 55, ss. 6, 7, as re-enacted in Sched. VI. (Part. II.) of the Weights and Measures Act, 1878 (41 & 42 Vict. c. 49), and that by s. 48 of the same Act an inspector under the Acts is empowered, subject to the provisions of the enactment, to enter any place, whether a building or in the open air, whether open or enclosed, and to seize and retain any false or unjust weights, measures, etc., which he may find there. The weighing of cattle is provided for by the Markets and Fairs (Weighing of Cattle) Acts, 1887 and 1891 (50 & 51 Vict. c. 27, and 54 & 55 Vict. c. 70).

Under s. 4 of the Act of 1887, the market authority are bound to provide, in or near every market or fair, a weighing machine for weighing cattle; and it has been held that the machine must be a permanent structure, and may be kept in a public highway even though it tend to obstruct the public right of passage (*McIntosh* v. *Romford Local Board* (1889), 61 L. T. 185).

Confirmation of the byelaws.—As to the confirmation of byelaws made under s. 42 of the Markets and Fairs Clauses Act, 1847 (10 & 11 Vict. c. 14), as incorporated with the Public Health Act, 1875, see the Public Health (Confirmation of Byelaws) Act, 1884 (47 Vict. c. 12).

Stallages, rents and tolls.—Power to take the stallages, rents and tolls for the use of a market provided by them is conferred upon an urban district council by s. 166 of the Public Health Act, 1875. For the reason mentioned in the last paragraph of the memorandum of the Local Government Board, care should be taken to exclude from any proposed list of tolls submitted to that Board for the approval required by s. 167 of the same Act, any charges in the nature of stallages or rents, or picage tolls. Tolls proper are leviable on the goods brought into a market for sale; but stallages and rents are sums payable to the owner of the market in respect of the exclusive occupation, for a longer or shorter period, of a portion of the area of the market place. Picage is a payment for permission to make holes for posts within the market area. The distinction between a toll for the use of a market only and a toll for the use of any particular part of the soil of the market is firmly established. See *Northampton* (*Mayor of*) v. *Ward* (1745), 1 Wils. 107; 2 Stra. 1238; *Norwich* (*Mayor, etc. of*) v. *Swann* (1777), 2 W. Bl. 1116; *Rex* v. *Bell* (1816), 5 M. & S. 221; 17 R. R. 315; *Roberts* v. *Aylesbury Churchwardens* (1853), 1 E. & B. 423; 22 L. J. M. C. 34; 17 Jur. 236; *Yarmouth* (*Mayor, etc. of*) v. *Groom* (1862), 1 H. & C. 102; 32 L. J. Ex. 74; 8 Jur. (N.S.) 677; 7 L. T. 161; *R.* v. *Caswell* (1872), L. R. 7 Q. B. 328; 41 L. J. M. C. 108; 26 L. T. 574; 20 W. R. 624; 36 J. P. 645; *Percy* v. *Ashford Overseers* (1876), 34 L. T. 579; 40 J. P. 502;

Bedford (*Duke of*) v. *St. Paul, Covent Garden* (1882), 57 L. J. M. C. 41 ; 45 L. T. 616 ; 30 W. R. 411 ; 46 J. P. 581 ; *London* (*Mayor, etc. of*) v. *Greenwich* (1883), 48 L. T. 437 ; 47 J. P. 148.

Where a market is established under a special Act incorporating the Markets and Fairs Clauses Act, 1847, it generally prescribes the tolls to be charged. Where by a local Act the local board and their lessees were empowered to take from any person occupying any shop, stall, stand, bench, or ground space in market place under the management of such board, and used as a general market, such toll as the board might appoint, not exceeding the tolls specified in the schedule to the Act, and that schedule contained a list of tolls to be taken "from the occupier of every stall raised above the ground," for the sale of articles, "according to the size or dimension of such stall, namely, for each lineal foot of frontage thereof," etc. : it was held that the Act imposed the toll on the stall or space occupied only, and not on the articles sold ; so that a person might legally sell marketable commodities from door to door within the prescribed limits (*Caswell* v. *Cook* (1862), 11 C. B. (N.S.) 637 ; 31 L. J. M. C. 185 ; 27 J. P. 183. See also *Quilligan* v. *Limerick Market Trustees* (1883), 14 L. R. Ir. 265). A horse is an article within s. 13 of the Act of 1847 (*Llandaff and Canton Market Co.* v. *Lyndon* (1860), 8 C. B. (N.S.) 515 ; 30 L. J. M. C. 105 ; 6 Jur. (N.S.) 1344 ; 2 L. T. 771 ; 8 W. R. 693). Where a special Act provided that no person should sell or expose for sale in a certain district, except in the market place, any provisions or other goods mentioned in the schedule, and the schedule, among other things, provided "for every stallion exposed to view, one shilling": it was held that the Act did not so incorporate the words of the schedule as to make it an offence to expose to view within the district, for it applied only to exposing for sale (*Luke* v. *Charles* (1861), 25 J. P. 148).

Under the Exmouth Local Act a penalty was imposed on all persons who sold within the limits of the market any marketable articles not in their own house or shop, or in the market not being licensed. P. sold articles without such license, and the collector of tolls on detecting him said he would summon P. The same evening P. called and paid toll to the collector before the summons was issued. The justices dismissed the summons because the toll was paid before the summons was issued. The court held that the payment of the toll did not condone the offence, and that, therefore, the justices were wrong in dismissing the summons (*Carter* v. *Parkhouse* (1870), 34 J. P. 438 ; 22 L. T. (N.S.) 788).

The prescribing a list of tolls is a matter entirely distinct from the making of byelaws under s. 167 of the Public Health Act, 1875, and such list, therefore, should not be embodied in any proposed byelaws, but a separate draft should be prepared. The list should be framed in precise terms, so as to describe clearly the animal, commodity, or article upon which each toll is to be levied. Thus, the term "beast" should not be used if it is intended to refer to horned cattle only, although local usage may sanction such a limited application of the term ; and each toll should be expressed to be leviable on such-and-such an animal, commodity, or article "brought into the market for sale or exposure for sale." When goods are sold in bulk, a toll should not be prescribed in respect of "a basket," "a bundle," or other like package, but in respect of "every basket [bundle or package] of ," (naming the goods or articles usually sold by the basket, etc.) Although, apparently, any toll leviable by an urban district council in a market belonging to them may be altered by a table of tolls approved by the Local Government Board under s. 167 of the Public Health Act, 1875, it would seem that no

approval on the part of that Board is necessary where the council, on providing a market by acquiring an existing undertaking, merely propose to continue the existing lawful tolls. It is unnecessary to expressly repeal an existing toll, when the toll is to be altered. The new toll, when approved by the Local Government Board, will supersede it. It may be expected that, before approving a list of tolls, the Local Government Board will require to be furnished with a certificate under the hand of two justices that the market place is completed and fit for public use (see ss. 31 and 32 of the Markets and Fairs Clauses Act, 1847).

Selling in a market.—By s. 13 of the Markets and Fairs Clauses Act, 1847, "after the market place is opened for public use every person other than a licensed hawker who shall sell or expose for sale in any place within the prescribed limits, [*i.e.*, the district,] except in his own dwelling place or shop, any articles in respect of which tolls are by the special Act authorised to be taken in the market, shall for every such offence be liable to a penalty not exceeding forty shillings."

It would appear from *Williamson* v. *Norris*, [1899] 1 Q. B. 7, decided under the Licensing Acts, that a servant cannot be convicted of selling. In *Morgan* v. *Kingdon* (1875), 39 J. P. 471, a servant was convicted, but the point was not taken, and the conviction was quashed on other grounds. See also *Hotchin* v. *Hindmarch*, [1891] 2 Q. B. 181 ; 55 J. P. 775 ; 65 L. T. 149.

If the sale be without, although the delivery be within, the limits under the Act, it is no offence (*Bourne* v. *Lowndes* (1858), 31 L. T. (o.s.) 114 ; 22 J. P. 354). It has been held in Ireland that where there is a sale by sample within the limits, and the bulk is also within the limits, it is an offence within the section (*Londonderry* (*Mayor, etc. of*) v. *McElhinney* (1874), 9 Ir. R. C. L. 61) ; but where the bulk is outside the limits it is no offence (*Newtonwards Commissioners* v. *Woods* (1877), 11 Ir. R. C. L. 506).

Where a farmer living without the limits used to send all his butter to a shop within the limits in a course of dealing, being allowed the market price for the same, it was held that this was not a selling by the farmer within the limits under s. 13 (*Stretch* v. *White* (1861), 25 J. P. 485). The sale in this case was complete at the farm, as the property in the butter passed to the purchaser as soon as it was manufactured and set aside for delivery. Where a carrier delivered certain carcases at a shop within the limits, and the carcases were there weighed and paid for, but it was proved that they were delivered in pursuance of a previous contract entered into between the same parties, at the same place, a week previously, it was held that the sale was within the section (*Exeter* (*Mayor of*) v. *Heaman* (1877), 37 L. T. (N.S.) 534 ; 42 J. P. 503). This case was followed in *Torquay Market Company* v. *Burridge* (1884), 48 J. P. 71, although with hesitation. In that case a greengrocer within the limits used to order vegetables from a farmer outside, and paid monthly, and the farmer was charged with selling marketable goods without paying toll, and the court held, on the authority of the *Exeter Case*, that he was liable. MATHEW, J. : "I confess I cannot see any distinction between this case and the case of *Exeter* v. *Heaman*." DAY, J. : "I agree, and regret that we are obliged to come to such a decision." Further illustrations as to the place where the sale takes place will be found in *Pletts* v. *Campbell*, [1895] 2 Q. B. 229 ; 64 L. J. M. C. 225 ; 43 W. R. 634 ; 59 J. P. 502 ; 15 R. 303 ; 11 T. L. R. 454 ; *Pletts* v. *Beattie*, [1896] 1 Q. B. 519 ; 60 J. P. 185 ; 65 L. J. M. C. 86 ; 74 L. T. 148 ; *Parker* v. *Alder* (1898), 62 J. P. 772.

The Taunton Market Act prohibited the selling within certain limits of the market, corn, grain, fish, meat, poultry, or other provisions, or any bulls,

sheep, swine, or other live cattle which are usually sold in public markets; and it was held that a shopkeeper selling potatoes came within the statute, these being provisions, and also "usually sold within markets" (*Shepherd* v. *Folland* (1884), 49 J. P. 165). The Neath Improvement Act prohibited persons selling elsewhere than in the market any meat, fish, poultry, vegetables, garden seeds, fruit, butter, cheese, or other marketable commodities, goods, wares, or merchandise. M., a servant of the manufacturer, sold gingerade in bottles from a waggon elsewhere than in the market, and was convicted. It was held that gingerade was not a marketable commodity within the Act, nor *ejusdem generis* with the things specified; the conviction was therefore bad (*Morgan* v. *Kingdon* (1875), 39 J. P. 471).

The appellant, a cattle salesman, occupied premises, which he used for the sale of cattle, under leases granted by the corporation of a borough, containing covenants for quiet enjoyment. Afterwards the corporation, as the urban authority, established a cattle market in the borough, and published a list of tolls. The appellant was convicted for selling cattle, for which no toll had been paid, in his sale yard within the borough, but not within the limits of the market. It was held on appeal that the corporation had not derogated from their grant by establishing a market; that the appellant had not, by virtue of the leases, acquired any right to sell cattle within the meaning of s. 166 of the Public Health Act, 1875, which the urban authority could not interfere with by establishing a market, and was therefore liable to a penalty under s. 13 of the Act of 1847 (*Spurling* v. *Bantoft*, [1891] 2 Q. B. 384; 60 L. J. Q. B. 745; 60 L. T. (N.S.) 584; 40 W. R. 157; 56 J. P. 132; 17 Cox C. C. 372). But where the right is in the nature of a franchise, s. 166 of the Public Health Act, 1875, applies, and protects a sale (*cf.* *Fearon* v. *Mitchell* (1872), L. R. 9 Q. B. 690; 41 L. J. M. C. 170; 27 L. T. (N.S.) 33; 36 J. P. 804).

A baker living outside the limits of a borough, who, in a mutual course of dealing, delivers bread to his customers within the borough from a cart three days a week, is not guilty of the offence of "exposing for sale" an article in respect of which tolls are authorised to be taken within the prescribed limits (*White* v. *Yeovil* (*Mayor, etc.*) (1892), 61 L. J. M. C. 213). In this case the baker does not appear to have been charged with "selling."

A "licensed hawker" is exempt from the provision in s. 13 of the Markets and Fairs Clauses Act, 1847. As to hawkers' licenses full particulars are contained in the Hawkers Act, 1888 (51 & 52 Vict. c. 33), and also in the Pedlars Acts (33 & 34 Vict. c. 96, s. 6, and 44 & 45 Vict. c. 45). It was held in *Howard* v. *Lupton* (1875), L. R. 10 Q. B. 598; 44 L. J. M. C. 150; 40 J. P. 7, that a licensed pedlar who sold potatoes and fruits outside the market, but within the limits, was protected though he had a horse and cart, and was thus acting rather as a hawker than as a pedlar. But this decision was not followed in the *Woolwich Local Board* v. *Gardiner*, [1895] 2 Q. B. 497; 64 L. J. M. C. 248; 73 L. T. 218; 59 J. P. 597. There it was held that a person holding a pedlar's certificate was only entitled to exemption provided by s. 13 of the Markets and Fairs Clauses Act as extended by s. 6 of the Pedlars Act, 1871, whilst he was acting as a pedlar within the definition of "pedlar" in s. 3 of the last-mentioned Act, and therefore that the holder of such a certificate who used a horse and cart and sold tollable articles in a market was liable to a penalty. The term "licensed hawker" with reference to a pedlar must be construed to include a person holding a pedlar's certificate only whilst he is acting as a "pedlar" within the definition of that term in s. 3. WRIGHT, J., in the *Woolwich Case*, suggests that the decision in

Howard v. *Lupton* would probably have been otherwise if the provision in s. 2 of the Pedlars Act, 1881, authorising the person to whom a certificate is granted to act as a pedlar within any part of the United Kingdom, had been in existence at that time; "because, as I read the judgments, the minds of BLACKBURN, J., and MELLOR, J., were influenced by the consideration that, by the Act of 1871, a pedlar's certificate only applied to the area of the police district in respect of which it was taken out."

The provision in the Hawkers Act, 1888 (s. 3), that "it shall not be necessary for a licence to be taken out . . . by any person selling fish, fruit, victuals or coal," relates only to the excise licence under that Act; so that where the Bolton Local Act imposed a penalty on persons selling fish, etc., in the streets within market limits, without a licence from the corporation, and a person sold fish within the limits without such a licence, it was held that he was not exempt from the penalty by virtue of the Hawkers Act, which applied only to the excise licence, but not to the local licence (*Openshaw* v. *Oakley* (1889), 53 J. P. 740; 60 L. T. 929; 16 Cox C. C. 671; 5 T. L. R. 520). Under a similar clause, in the Blackpool Local Act, it was held that a pedlar, who had a pedlar's licence, did not require to have a licence from the corporation to sell hat-guards in the street, as these were not tollable articles mentioned in the schedule to that Act (*Loftos* v. *Gleave* (1891), 55 J. P. 149). Where K. sold fish from a cart in Blackpool, which was governed by the Blackpool Local Act, 1879, one section of which required a corporation licence to sell any goods for which a toll was leviable; and a prior local Act of 1853 contained an exemption from toll for fish sold in places other than the market, and there was no repeal expressed of the prior Act, and parts of it were recited in the later Act, it was held that the justices were right in holding that the exemption in the former Act still continued and that no corporation licence was necessary for selling fish (*Loftos* v. *Higgins* (1891), 55 J. P. 151).

A market for a town was established under a local Act. A section, for preventing any encroachment on it, enacted that any person who should sell or offer or expose to sale (among other things) any roots, fruit, or garden stuff in any other place within the town should be liable to a penalty, with a proviso excepting the sale by inhabitants in their houses, shop or premises. A person bought vegetables from a wholesale dealer in the market, who had previously on the same day paid the toll for them; he then offered them for sale in the streets. It was held that he had committed an offence within the section (*Black* v. *Sackett* (1869), 10 B. & S. 639).

Disturbance of a market.—When a new market is held in the same town as the old, if held upon the same day it is a disturbance by intendement of law; but if it is held on a different day it is only evidence of disturbance for a jury (*Yard* v. *Ford* (1671), 2 Saund. 172; *Mayor, etc. of Dorchester* v. *Ensor* (1869), L. R. 4 Ex. 335; 39 L. J. Ex. 11; 21 L. T. 145; 34 J. P. 167). To support an action for disturbance of a market, it is not necessary that the defendant should have actually sold; any active interference by him in the conduct of the new market or participation in its profits or risk, is sufficient (*Mayor, etc. of Dorchester* v. *Ensor*, *supra*). A market held on a Monday is in these days *primâ facie* an injury to a market held on the Thursday (*Elwes* v. *Payne* (1879), 12 Ch. D. 468; 48 L. J. Ch. 831; 41 L. T. (N.S.) 118; 27 W. R. 704). An action will lie for erecting a market near the plaintiff's ancient market, though the defendant only took money in the nature of rent for his stalls, which is a lawful act, but took no toll (*Mosley* v. *Chadwick* (1782), 7 B. & C. 47 *n.*; 31 R. R. 150 *n*; 3 Doug. 117). Where a railway company set up a depôt or

row of stalls at their terminus within three hundred yards of an ancient market, and let them to dealers for the purpose of selling fruit and vegetables brought up by their railway, it was held that the depôt was in fact a rival market and a disturbance of the ancient market (*Great Eastern Rail. Co.* v. *Goldsmid* (1884), 9 App. Cas. 927 ; 54 L. J. Ch 162 ; 52 L. T. (N.S.) 270 ; 33 W. R. 81 ; 49 J. P. 260). Unless the franchise, or grant of the market or statute creating it, is shown to confer a special right on the owners of the market, shopkeepers are not prevented from selling their goods in their shops on a market day (*Mayor, etc. of Manchester* v. *Lyons* (1882), 22 Ch. D. 287 ; 47 L. T. 677 ; LITTLEDALE, J., in *Mayor, etc. of Macclesfield* v. *Pedley* (1833), 4 B. & Ad. 397 ; *Mayor, etc. of Macclesfield* v. *Chapman* (1843), 12 M. & W. 18). If there is insufficient accommodation within the market limits for all who are ready to buy and sell therein, a person may properly sell out of the market (*Islington Market Case* (1835), 2 Cl. & F. 513 ; 12 M. & W. 20 *n.*), though on the particular day room might possibly have been found, yet the general state of the market known to him was such that he was on this particular day reasonably under the belief that he could not find his way into it (*Prince* v. *Lewis* (1826), 5 B. & C. 363 ; 3 D. & R. 121 ; 2 C. & P. 66; 4 L. J. (O.S.) K. B. ; 29 R. R. 265 ; *Moseley* v. *Walker* (1827), 7 B. & C. 40 ; 9 D. & R. 863 ; 5 L. J. (O.S.) K. B. 358 ; 31 R. & R. 146). It is essential to the complaint of an old market against a new one set up near it, that the old one was competent to the accommodation of the public (*O'Reilly, Ex parte* (1790), 1 Ves. J. 114 ; 1 R. R. 89). When the cattle market of London was removed from Smithfield to Islington, all rights reserved, and no new market to be opened within seven miles of St. Paul's, and A. had a lease of premises before this removal, and being near Islington market turned them into market lairs to accommodate cattle, and sold cattle at the premises between market days, charging the same commission as if sold in the Islington market, it was held that the owners of the market had a good cause of action against A. for a disturbance of their market (*Mayor, etc. of London* v. *Low* (1879), 49 L. J. Q. B. 144 ; 42 L. T. (N.S.) 16 ; 28 W. R. 250 ; 44 J. P. 169).

A sale by sample on a market day, near to but not within the limits of the market, is not a disturbance of the market unless done designedly and with the intention to evade payment of toll (*Brecon Corporation* v. *Edwards* (1862), 31 L. J. Ex. 368 ; 1 H. & C. 51 ; 8 Jur. (N.S.) 461 ; 6 L. T. 293). Where a person brought sheep to a public-house forty yards out of the limits of a market, left them there, went into the market in search of customers, whom he brought back to the public-house and there sold the sheep to them, it was held that this was a fraud upon the market, for which the seller was liable to an action by the lessee of the market (*Bridgland* v. *Shafter* (1839), 5 M. & W. 375 ; 8 L. J. Ex. 246).

Under a grant of a market to be holden within certain limits, the grantees may hold the market in any convenient place within the limits, and may from time to time remove such market, or any part thereof, to any other convenient place within the limits (*Wortley* v. *Nottingham Local Board* (1870), 21 L. T. 582). When the grant of a market is not confined to any particular locality, the grantee may from time to time change the site in order to suit his own convenience ; but it is an implied condition of the exclusive privilege that he shall provide a market place, and that implied condition is satisfied so long as he gives reasonable accommodation to those members of the public who use the market either as buyers or sellers, and the extent of the accommodation which must be afforded in each case must vary with the circumstances. (Lord WATSON in *Edinburgh Magistrates* v. *Blackie* (1886), 11 App. Cas. 665 ; see also *Midleton* (*Lord*) v.

Power (1886), 19 L. R. Ir. 1 ; *Ellis* v. *Bridgnorth Corporation* (1861), 2 Johns. & H. 67 ; 4 L. T. 112 ; 9 W. R. 331.) The public must have the same privileges in the new market as in the old (*R.* v. *Starkey* (1837), 7 Ad. & E. 95 ; W. W. & D. 502 ; 2 N. & P. 169 ; 6 L. J. K. B. 202). In the Cambridge Market Act, 1850, power was given to the mayor, aldermen, and burgesses in council to enlarge as well as to improve the market of that borough, and it was held that the meaning of the word was not restricted to merely extending the market to streets theretofore forming parts of its sides, but authorised them to extend the market to other streets in its immediate neighbourhood even though such streets were not mentioned in the Act (*Att.-Gen.* v. *Cambridge* (1873), L. R. 6 Eng. & Ir. App. 303 ; 22 W. R. 37). Owners and occupiers of premises may acquire the right as appurtenant to such premises of using stalls in the market opposite their premises, and in such a case to remove the market to their damage is actionable (*Ellis* v. *Bridgnorth Corporation* (1863), 15 C. B. (N.S.) 52 ; 32 L. J. C. P. 273 ; 9 Jur. (N.S.) 1078 ; 8 L. T. 668 ; 12 W. R. 56).

There may be a right by custom to exclude persons from selling marketable articles in shops or markets (*Manchester* (*Mayor, etc.*) v. *Pedley* (1833), 4 B. & Ad. 397), but the grant of a market with all liberties and free customs to such market belonging, does not imply such a right (*Penryn* (*Mayor, etc.*) v. *Best* (1878), 3 Ex. D. 292 ; 48 L. J. Ex. 103 ; 38 L. T. 805 ; 27 W. R. 126). And such a right may be impliedly taken away by statute. Thus, where commissioners were, by a local Act incorporating the Markets and Fairs Clauses Act, 1847, empowered to set up a market and take toll, and by s. 47 of the local Act, tolls were imposed upon all persons selling marketable articles, except in premises in their own occupation, it was held that an auctioneer, who held sales in a field in his own occupation, was not liable for penalties (*Rutherford* v. *Straker* (1887), 42 Ch. D. 85 *n.* ; 58 L. J. Ch. 718 *n.* ; 60 L. T. 756 *n.*). He was subsequently sued for disturbance of the market, but it was held that no action lay, although, apart from the special Act, the mode of sale would have been a disturbance of an ancient market (*Abergavenny Improvement Commissioners* v. *Straker* (1889), 42 Ch. D. 83 ; 58 L. J. Ch. 717 ; 60 L. T. 756 ; 38 W. R. 158).

Section 13 of the Markets and Fairs Clauses Act, 1847, excepts sales in a dwelling-place or shop. A vessel moored to a wharf on a canal within the limits, is not a shop (*Wiltshire* v. *Baker* (1861), 11 C. B. (N.S.) 237 ; 31 L. J. M. C. 10 *n.* ; 10 W. R. 89 ; 5 L. T. (N.S.) 355) ; nor an agricultural hall with land containing pens and sheds for the sale of cattle and sheep by auction, though adjoining the auctioneer's dwelling-house (*Fearon* v. *Mitchell* (1872), L. R. 7 Q. B. 690 ; 41 L. J. M. C. 170 ; 27 L. T. (N.S.) 33 ; 36 J. P. 804) ; nor a skittle-ground let for two days for the occasion of a sale (*Hooper* v. *Kenshole* (1877), 2 Q. B. D. 127 ; 46 L. J. M. C. 160 ; 36 L. T. (N.S.) 111 ; 25 W. R. 368 ; 41 J. P. 182) ; nor a yard attached to a dwelling-house in which a sale by auction of horses took place (*Llandaff and Canton Market Company* v. *Lyndon* (1860), 8 C. B. (N.S.) 515 ; 30 L. J. M. C. 105 ; 8 W. R. 693 ; 25 J. P. 295 ; 6 Jur. (N.S.) 1344) ; nor a yard adjoining a dwelling-house in which there were sheds and other places for the sale of cattle and sheep (*McHole* v. *Davies* (1875), 1 Q. B. D. 59 ; 45 L. J. M. C. 30 ; 33 L. T. 502 ; 24 W. R. 343) ; nor a pen in the yard at the back of a public-house in the occupation of another (*Perkins* v. *Arber* (1873), 37 J. P. 406) ; nor a structure which resembled a booth or stall, having no stable or substantial character, no room for customers within it, nor means of sheltering or protecting goods from the weather or from depredators (*Pope* v. *Whalley* (1865), 6 B. & S. 303 ;

34 L. J. M. C. 76 ; 11 Jur. (N.S.) 444 ; 11 L. T. 769 ; 13 W. R. 402) ; and a sale of marketable commodities from carts and vans standing in the street opposite a shop, is not a sale in the shop (*Horner* v. *Freeman*, W. N. (1884), 223).

A local Act for establishing a market, imposed a penalty on any person who sold at any place within the limits of the Act other than in the market place, "or in his own dwelling-house, or in any shop attached to and being part of any dwelling-house." It also incorporated the Markets and Fairs Clauses Act, 1847. It was held that a sale in a shop attached to any dwelling-house was within the exemption of the local Act, and protected the seller from the penalty, although the dwelling-house is not his, and although the sale be a sale by auction (*Wiltshire* v. *Willett* (1861), 11 C. B. (N.S.) 240 ; 31 L. J. M. C. 8 ; 5 L. T. 355 ; 10 W. R. 44). The appellant was the tenant of a dwelling-house and shop, and a piece of ground in front of the shop, in Bacup ; there was a wooden shed affixed to the house, and supported on wooden posts, which had been erected over a piece of ground for eighteen years, and previous to the erection of the shed, stone flags had been built into and formed part of the house, which projected three feet from the house, and these flags helped to support the wooden shed. The appellant, after a market had been opened for the town, exposed potatoes and other vegetables for sale outside his house and shop, upon the piece of ground and beneath the wooden shed. It was held that the facts showed that the shed was part of the appellant's dwelling-place or shop (*Ashworth* v. *Heyworth* (1869), L. R. 4 Q. B. 316 ; 10 B. & S. 309 ; 38 L. J. M. C. 91 ; 20 L. T. 439 ; 17 W. R. 668).

Distress.—Goods exposed for sale in a public market or fair are privileged from distress (Co. Lit. 47 *a*).

SERIES V.—MARKETS.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for draft forms on which to submit the byelaws for the Board's preliminary approval, before they are adopted by the local authority.*]

BYELAWS

MADE BY THE * WITH RESPECT TO A MARKET.

Interpretation of terms.

1. Throughout these byelaws, the expression "the Council" means the * . Interpretation.

Interpretation of terms.—This clause should be inserted, although it does not at present form part of the model byelaws as printed. The following clauses should be renumbered.

For regulating the use of the market place and the buildings, stalls, pens, and standings therein, and for preventing nuisances or obstructions therein, or in the immediate approaches thereto.

1. A person resorting to the market place for the sale of any cattle, goods, provisions, marketable commodities or articles shall not, for the purpose of sale or of exposure for sale, place or cause to be placed such cattle, goods, provisions, marketable commodities or articles in any part or parts of the market place other than such as shall have been appropriated for the reception, deposit, or exposure for sale of the same, and shall be defined or described in a notice printed, painted, or marked in legible letters of such a colour as to be clearly distinguishable from the colour of the ground whereon such letters are printed, painted, or marked, and affixed or set up and continued in some suitable and conspicuous position at or near to such part or parts. Cattle, goods, etc. to be placed in proper part of market place.

* *Insert* "Urban District Council of "; *or*, "Mayor, aldermen, and burgesses of the borough of , acting by the council."

Cattle, goods, etc. not to be brought into market place before appointed time,

2. A person resorting to the market place for the sale of any cattle, goods, provisions, marketable commodities or articles shall not, for the purpose of sale or of exposure for sale, bring the same or cause the same to be brought into such market place before the hour of in the forenoon of any day appointed for the holding of any market.

or to remain therein after appointed time.

3. A person resorting to the market place for the sale of any goods, provisions, marketable commodities, or articles shall not allow such goods, provisions, marketable commodities or articles, or any part thereof, to remain in the market place after the hour of in the afternoon of any day appointed for the holding of any market.

Use of market place.—Clauses 1 to 3 of the model series are byelaws "for regulating the use of the market place." The effect of clause 1 is to allocate a certain portion of the market place to each class of thing sold. The clause requires that if wares of various kinds are sold in the market place, the district council shall determine generally what portion of the space shall be appropriated to the sale of each commodity, and that such appropriation shall be indicated by notices conspicuously displayed at or near the places assigned. The allotment of "the buildings, stalls, pens, and standings" within each division of the market place is a matter for arrangement between the persons bringing cattle or goods to the market for sale, and the district council or their officers. The prohibition of under-letting, or alteration of stalls, is also a matter which can be dealt with otherwise than by a byelaw, as it may be made a condition of the letting. A byelaw in the terms of clause 1 would seem to be supported by the decision in the case of *Savage* v. *Brook* (1863), 15 C. B. (N.S.) 264 ; 33 L. J. M. C. 42 ; 9 L. T. (N.S.) 334.

A byelaw made under a local Act for regulating markets was held not to be unreasonable, or in restraint of trade, by reason of its setting apart a portion of a market for sale by wholesale only, and providing a penalty for selling by retail in that portion (*Strike* v. *Collins* (1886), 55 L. T. 182 ; 34 W. R. 459 ; 50 J. P. 741 ; 2 T. L. R. 421).

Clauses 2 and 3 prevent goods being brought into the market place before a certain hour, or remaining therein after a certain hour, on any market day. The hours prescribed should be respectively somewhat earlier than the time for the opening of the market, and somewhat later than the hour of closing. The hours during which the market is to be open will be fixed by clause 15 of the model series. Clauses 2 and 3 will be found useful in a variety of ways. Thus, in the case of an unenclosed market place—most probably a public thoroughfare—it will be necessary to provide for the cleansing of the market place after each day's market is over. This work will usually be undertaken by the district council ; and their officers would be unable to perform their duty properly if they could not depend on the market place being cleared of goods by a certain time in the day. Where shops and stalls are erected in the market place, some difficulty might be expected to arise in the collection of tolls if goods were allowed to remain in the market from one day to another ; and where the market is appropriated on different days to the sale of different classes of goods, some such provision as that made by clause 3

appears absolutely necessary for the proper regulation of the market place. It will be noticed that cattle, although mentioned in clause 2, are not referred to in clause 3. The reason of this will appear on reference to s. 35 of the Markets and Fairs Clauses Act, 1847, under which a second toll becomes due in respect of cattle not removed from the market place within one hour after the close of the market. The prompt removal of cattle from the market place at the conclusion of the market is thus provided for by the imposition by the statute of what is virtually a fine for non-removal.

Fires and lights to be extinguished.

4. Every tenant or occupier, or servant of a tenant or occupier of any building, stall, or standing in the market place shall, before the hour of in the afternoon of every day during which such building, stall, or standing may have been used for the sale or exposure for sale of any goods, provisions, marketable commodities, or articles, extinguish or cause to be extinguished every fire or light in, upon, or in connection with such building, stall, or standing.

Extinction of fires and lights.—A clause such as this, which provides for the extinction of fires and lights throughout the market by a certain time in the day, is found in almost every series of byelaws for the regulation of a market place to which shops or stalls are attached. It may be assumed that the officers of the district council will be instructed to make a tour of the market place, every day before the hour of final closing, in order to see that all fires and lights have been put out; but this should not be held to render the present clause unnecessary, as it makes every person concerned in the use of each shop or stall responsible for taking proper precautions against danger from the fires or lights used therein or thereon.

As regards danger from fire generally, it is to be observed that at the common law every man must safely keep his own fire so that no damage in any wise happen to his neighbour (Y. B. 2 Hen. 4, 18, pl. 5). And this rule applies to a fire made out of doors, as well as to a fire made in a building (*Turberville* v. *Stampe* (1697), 1 Ld. Raym. 264; 1 Salk. 13). But by the Fires Prevention (Metropolis) Act, 1774 (14 Geo. 3, c. 78), s. 86, which is of general application and not limited to the metropolis (*Richards* v. *Easts* (1846), 15 M. & W. 244; 15 L. J. Ex. 163), no action lies against any person in whose house, chamber, stable, barn, or other building, or on whose estate any fire shall accidentally begin. This enactment applies only to fires which are the result of chance, or are incapable of being traced to any definite cause, but not to fires which, though they may be accidental as distinguished from wilful, are occasioned by negligence or want of reasonable care (*Filliter* v. *Phippard* (1847), 11 Q. B. 347; 17 L. J. Q. B. 89; 12 Jur. 202). As to the liability of the tenant for the negligence of his servant, special reference may be made to *M'Kenzie* v. *M'Leod* (1834), 10 Bing. 385; 4 Moo. & Scott, 249.

Cleaving of carcases, etc.

5. A tenant or occupier, or a servant of a tenant or occupier of any building, stall, or standing in the market place used for the sale, or exposure or preparation for sale of any carcase or meat intended for the food of man, shall not cleave such carcase or meat elsewhere than upon a cleaving block, or chopping

board, or otherwise than when properly attached to or suspended from the hooks provided for the purpose in, upon, or in connection with such building, stall, or standing.

Cleaving of carcases or meat.—This clause is one for regulating the use of buildings, stalls and standings in a market place where meat is sold. It seeks to prevent the chopping or cleaving of meat in such a way as to cause damage to the market.

Animals to be allowed proper space.

6. A person who shall use any pen for the reception of any cattle brought into the market place for the purpose of sale, or of exposure for sale shall not place or allow to be placed in such pen a greater number of cattle than shall be compatible with the allowance in respect of the several animals placed in such pen of an extent of superficial space to be determined in accordance with the following regulations :

	ft.	*in.*		*ft.*	*in.*
For every horse :—					
a space not less than - -	8	0	by	2	0
For every ox or cow :—					
a space not less than - -	8	0	by	2	0
For every mule or ass :—					
a space not less than - -	5	0	by	1	3
For every calf :—					
a space not less than - -	5	0	by	1	3
For every ram, ewe, wether, lamb, goat, kid, or pig :—					
a space not less than - -	4	0	(superficial)		

Use of pens.—This byelaw, which is so drawn as to bring it within the terms of s. 42 of the Markets and Fairs Clauses Act, 1847, as a byelaw for regulating the use of the pens in a market place, is intended to prevent unnecessary suffering by the crowding together of animals brought for sale in a cattle market. The spaces which are here inserted in the byelaw are stated, in a footnote thereto, in the official edition of the model series, to have been "suggested as generally suitable," subject to the observation that as regards sheep, goats, and pigs, the space required is calculated with reference to animals "of medium size." Circumstances may suggest slight modifications in particular cases ; but the space allowed for each animal should not generally be less than that mentioned in the clause as printed above.

Goods not to project beyond stalls, etc.

7. A tenant or occupier of any building, stall, or standing in the market place shall not cause or allow any goods, provisions, marketable commodities or articles to be deposited or exposed for sale in or upon such building, stall, or standing, so that such goods, provisions, marketable commodities or articles, or

any part thereof, shall project beyond the line of such building or stall, or beyond the limits assigned to such standing, so as to obstruct the passage of any person or vehicle or of any cattle, goods, provisions, marketable commodities or articles in or through the market place or any part thereof.

Avenues and passages to be kept clear.

8. A tenant or occupier of any building, stall, or standing in the market place, or a person resorting to such market place for the sale of any goods, provisions, marketable commodities or articles, shall not for any longer time or in any other manner than shall be reasonably necessary for the conveyance of such goods, provisions, marketable commodities or articles, to or from such building, stall, or standing, or any part of such market place, deposit, or cause, or allow to be deposited in any avenue or passage adjoining such building, stall or standing, or elsewhere in such market place, or in any of the immediate approaches thereto, any hamper, crate, basket, box, barrel, or other receptacle for any goods brought into such market place for the purpose of sale or of exposure for sale.

Nuisances and obstructions in the market place.—Clauses 7 to 14 inclusive relate to nuisances and obstructions in the market place, and the immediate approaches thereto. Clauses 7 and 8 deal with obstructions due respectively to placing goods so as to project beyond the line of any shop or stall, or beyond the limits of any standing, and to hampers and other packages being placed for an unreasonable time in the avenues, or elsewhere in the market place, or its immediate approaches, in connection with the conveyance of goods to and from the several shops, stalls, and standings. With regard to the general words in clause 8, apart from the byelaw, a person who exposes goods for sale in a public market has a right to occupy the soil with baskets or sacks necessary and proper for containing the goods (*Townend* v. *Woodruff* (1850), 5 Ex. 506 ; 19 L. J. Ex. 315). With regard to markets held in streets, it has also been held that where a place has been used as a public fair or market for above twenty years, to which persons have resorted for the purpose of there exposing articles for sale, they are not liable to be indicted for a nuisance as for obstructing the highway, if fairly engaged in using the place as a fair or market (*Rex* v. *Smith* (1802), 4 Esp. 109 ; 6 R. R. 842).

Cleansing of shops, stalls, etc.

9. Every tenant or occupier of any building, stall, or standing in the market place, shall cause such building, stall, or standing to be properly cleansed immediately before the reception, deposit, or exposure for sale therein or thereon and immediately after the removal therefrom of any goods, provisions, marketable commodities or articles.

Removal of refuse.

10. Every tenant or occupier of any building, stall, or standing in the market place shall, from time to time, as often as

occasion may require, during any day on which such building, stall, or standing may be used for the reception, deposit or exposure for sale therein or thereon of any goods, provisions, marketable commodities or articles, cause all filth, garbage, and refuse which may be produced or may accumulate in the course of the trade or business carried on by such tenant or occupier to be placed in such receptacle (if any) as may be provided by the Council, or otherwise in a receptacle of suitable construction and of adequate dimensions to be provided by such tenant or occupier, in, upon, or in close connection with such building, stall, or standing.

He shall, from time to time, as often as may be necessary, cause the contents of such receptacle to be promptly removed, in such a manner and with such precautions as not to create a nuisance in the process of removal, to such place of deposit as shall, from time to time, be appointed by the Council, and shall be defined or described in a notice printed, painted, or marked in legible letters of such a colour as to be clearly distinguishable from the colour of the ground whereon such letters are printed, painted, or marked, and affixed or set up and continued in some suitable and conspicuous position at or near to such place of deposit.

Nuisances in the market place.—Clauses 9 and 10 of the model series appear to be authorised by that part of s. 42 of the Markets and Fairs Clauses Act, 1847, which relates to byelaws for preventing nuisances in the market place. Clause 9 also seems to be in part a byelaw for regulating the use of buildings, stalls, and standings. In any case its provisions are of a salutary character, especially in connection with the sale of meat and provisions, or with the use of a stall, on different days, for different kinds of goods. Clause 10 is useful even where the district council undertake the cleansing of the market place at the end of the day, for it prevents the accumulation of refuse in and about the buildings, stalls, etc., during the progress of the market, so as to become a nuisance to persons resorting thither.

Obstruction by vehicles, etc.

11. A person resorting to the market place and being in charge of any waggon, cart, truck, barrow, or other vehicle or of any beast of burden shall not cause or allow such vehicle or beast to stand in any avenue or passage in such market place, or in any of the immediate approaches thereto, for any longer time than shall be reasonably necessary for the loading, or unloading of any goods, provisions, marketable commodities or articles.

Obstruction by vehicles, etc.—The terms of this byelaw may have been suggested by a provision in s. 28 of the Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89), which applies to any "street," as defined by s. 3 of the same

Act. The clause is applicable to the "immediate approaches" to the market place, as well as to the market place itself. What constitute the immediate approaches to the market place, is a question primarily for the justices before whom any proceedings may be taken for the enforcement of the byelaws referring to these approaches.

Removal of litter, etc., from loading, unloading, etc. of goods.

12. Every person resorting to the market place for the sale of any goods, provisions, marketable commodities, or articles, or in charge of any waggon, cart, truck, barrow, or other vehicle, or of any beast of burden used for the conveyance of any goods, provisions, marketable commodities or articles to or from such market place shall, from time to time as often as occasion may require, and in such a manner as to prevent nuisance or obstruction, remove or cause to be removed from every avenue or passage in such market place, or from the footway or roadway of any of the immediate approaches thereto, all vegetable or animal refuse, filth, litter, or rubbish which may have fallen or may have been thrown or deposited therein or thereon during the loading or unloading or the conveyance to or from such market place of such goods, provisions, marketable commodities or articles.

Nuisances in connection with loading, unloading, etc. of goods.—This byelaw deals with what may be regarded as one of the commonest sources of nuisance in connection with a market, namely, the deposit of refuse and litter in the loading, unloading, etc., of goods. The operation of the clause extends to the "immediate approaches" to the market place, as well as to the market place itself. A byelaw preventing any person from throwing skins upon any part of the ground occupied by a market, or the immediate approaches, or in any cart standing thereon, without being authorised so to do by the superintendent of the market, was held too general, and bad, as being in restraint of trade (*Wortley* v. *Nottingham Local Board* (1870), 21 L. T. 582).

Cleansing of avenues and passages.

13. Every tenant or occupier of any building, stall, or standing in the market place shall cause every avenue or passage in connection with such building, stall, or standing, whether used by him alone or in conjunction with any other person, to be properly swept and cleansed once at least during each day appointed for the holding of any market.

Cleansing of avenues and passages.—The fact that the district council may undertake the cleansing of the market place at the end of the day, should not be regarded as rendering this clause unnecessary. Taken in connection with clause 10, the clause will be found to be of great assistance to the district council in preventing nuisances in the market place.

Obstruction by cattle, goods, etc.

14. A person resorting to the market place for the sale of any cattle, goods, provisions, marketable commodities or articles,

shall not cause or allow such cattle, goods, provisions, marketable commodities or articles to be brought or conveyed to or from such market place, or any building, stall, or standing therein, or to stand, be placed, or exposed for sale in such a manner as to obstruct the passage of any person or vehicle, or of any other cattle, goods, provisions, marketable commodities or articles in or through such market place or any part thereof or any of the immediate approaches thereto.

Obstruction by cattle, goods, etc.—This clause does not cover quite the same ground, but its object is similar to that of clauses 7, 8 and 11.

For fixing the days and the hours during each day on which the market shall be held.

Days and hours for holding market.

15. A market * shall be held on † in every ‡ throughout the year § .

On every day appointed for the holding of a market, such market shall be held between the hours of in the forenoon and in the afternoon:

Provided that when any day herein-before appointed for the holding of a market shall be a day duly appointed for a solemn fast, or public thanksgiving, such market shall be held on the lawful day next following such first-mentioned day.

Market days.—Section 14 of the Markets and Fairs Clauses Act, 1847, which is incorporated with the Public Health Act, 1875, by s. 167 of that Act, provides, that after the market place is opened for public use, the undertakers [district council] shall hold markets therein on the "prescribed days" (if any), and on such other days as the undertakers shall appoint from time to time, by any byelaw to be made in pursuance of the Act of 1847, or the "special Act" [Public Health Act, 1875]. "Prescribed," in the Act of 1847, means, "prescribed for that purpose in the special Act." There are no days prescribed in the "special Act" for the purpose above referred to, and the practical effect of s. 14 of the Act of 1847 is, therefore, to enable the district council by means of byelaws to fix the days for holding the market irrespective of any provision as to market days contained in any charter or statute under which the market may be held, except a local Act passed subsequently to the Public Health Act, 1875. It may, however, be observed that the prohibition in the 27 Hen. 6, c. 5, as amended by the 13 & 14 Vict. c. 23, against the holding of markets on

* Here specify the class or description of wares for which the market is intended.

† Here insert the day of the week.

‡ Here insert "week," "fortnight," "month," "quarter," as the case may require.

§ If the markets are not held periodically throughout the year, substitute the names of the months during which they are held.

Sundays, Ascension Day, Corpus Christi Day, Assumption Day, All Saints Day, and Good Friday, has not been removed, although there may be some doubt whether it applies to markets of statutory origin, as well as to markets by grant or prescription. In any case, the provision of the Sunday Observance Act, 1677 (29 Car. II. c. 7), forbidding the exposure for sale of any wares, merchandize, fruit, herbs, goods or chattels whatsoever upon the Lord's Day, under pain of forfeiture of the wares, etc., may be considered to operate as a general prohibition of the holding of markets on Sunday.

Hours for holding market.—These must be "fixed" by the byelaws, if the matter is dealt with at all. A byelaw simply reserving power to the district council to fix the hours from time to time as they may think fit, would be *ultrâ vires*. A byelaw prescribing that no auctioneer should sell cattle by auction in the market before twelve o'clock on the market day was held to be valid in *Collins* v. *Corporation of Wells* (1885), 1 T. L. R. 328.

For regulating the carriers resorting to the market, and fixing the rates for carrying articles carried therefrom within the limits of the district.

Carriers, when not hired, to occupy stands.

16. A carrier resorting to the market place shall not, at any time, while plying for hire and not actually hired, occupy a station in any part or parts of the market place other than such as shall be appropriated as a stand or stands for carriers and shall be defined or described in a notice printed, painted, or marked in legible letters of such a colour as to be clearly distinguishable from the colour of the ground whereon such letters are printed, painted, or marked, and affixed, or set up, and continued in some suitable and conspicuous position at or near to the part or parts so appropriated.

Canvassing prohibited.

17. A carrier resorting to the market place shall not, while plying for hire, canvass for hire by calling out or otherwise to the annoyance of any person.

Conduct of carriers.

18. Every carrier resorting to the market place shall at all times, while plying for hire, conduct himself with civility and propriety towards every person hiring or seeking to hire such carrier, and shall comply with every reasonable requirement of any person hiring such carrier.

What is a "carrier."—The term "carrier," as used in the Markets and Fairs Clauses Act, 1847, is not defined. In the absence of any such definition, common usuage would suggest that the term applied to a person employing a cart, van, or other wheeled vehicle, for the transport of goods for other persons for reward. A carrier would, in this way, be distinguished from a "porter," who himself carries goods for persons engaging his services. It has, however, been observed that in many places the byelaws made by local

authorities for the regulation of their markets, are so drawn as to indicate that those who, in ordinary language, would be described as porters, are locally regarded as coming within the scope of clauses as to carriers. For this reason, probably, the model clauses on the subject are very general in their terms, and appear to contain no provision which is not equally applicable whether the persons to whom it may be intended to apply them when adopted, are, in ordinary language, carriers or porters. The clauses in question aim at "regulating" the carriers by confining them, when plying for hire, and not actually hired, to stands set apart for the purpose (clause 16); by prohibiting touting (clause 17); and by requiring them to conduct themselves with civility and propriety towards hirers or intending hirers (clause 18). "Plying for hire" merely means whilst holding themselves at the disposal of the public for hire. Reference may be made on this point to the cases as to hackney carriages plying for hire (*Clarke* v. *Stanford* (1871), L. R. 6 Q. B. 357; 40 L. J. M. C. 151; 24 L. T. 389; 19 W. R. 849; 35 J. P. 662; *Allen* v. *Tunbridge* (1871), L. R. 6 C. P. 481; 40 L. J. M. C. 197; 35 J. P. 695; *Foinett* v. *Clark* (1877), 41 J. P. 359; *Cocks* v. *Mayner* (1894), 70 L. T. 403; 58 J. P. 104; 10 T. L. R. 133; 10 R. 467).

Licensing of carriers.—Byelaws referring to the licensing of carriers, and requiring them to wear badges, are sometimes proposed by local authorities; but there is no authority for such byelaws under s. 42 of the Markets and Fairs Clauses Act, 1847.

Rates for carrying.

19. Every carrier resorting to the market place shall be entitled to demand and receive from every person hiring such carrier, a sum to be determined in accordance with the following table as the rate or charge for the carriage of any goods, provisions, marketable commodities or articles, from such market place to any place or places within the limits of the district:—

TABLE OF RATES FOR THE CARRIAGE OF GOODS, PROVISIONS, MARKETABLE COMMODITIES, OR ARTICLES FROM THE MARKET PLACE.

Distance.	Weight.	Rate.
		s. *d.*
To any place within the distance of from the limits of the market place.	For a weight not exceeding lbs.	,,
	For every additional lbs.	,,
To any place beyond the distance of and within the distance of from the limits of the market place.	For a weight not exceeding lbs.	,,
	For every additional lbs.	,,
For every additional of distance beyond such last-mentioned distance.	For a weight not exceeding lbs.	,,
	For every additional lbs.	,,

Rates for carrying.—The fourth paragraph of s. 42 of the Markets and Fairs Clauses Act, 1847, as incorporated with the Public Health Act, 1875, enables the district council to fix the rates for carrying articles carried from the market "within the limits of the district" only. The distances inserted in the first column of the table appended to the above byelaw should accordingly be fixed so as to refer to journeys on the part of the carriers, which shall be wholly within those limits.

Penalties.

20. Every person who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of : Penalties.

Provided nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalty.—"Five pounds," or any less sum, may be inserted.

Repeal of Byelaws.

21. From and after the date of the confirmation of these byelaws, the byelaws relating to which were made on the day of in the year one thousand eight hundred and by the , and were confirmed on the day of in the year one thousand eight hundred and by [one of Her Majesty's Principal Secretaries of State] [the Local Government Board] shall be repealed. Repeal.

Repeal of byelaws.—This clause is not at present printed with the byelaws; but if there are now in force any byelaws made under the Public Health Acts with respect to the market, which the district council are desirous of repealing, the blank spaces in the clause should be filled in, and the clause added to the series.

SERIES VI.

SLAUGHTER-HOUSES.

SLAUGHTER-HOUSES.

MEMORANDUM.

SECTION 169 of the Public Health Act, 1875, (38 & 39 Vict. c. 55) enacts that "for the purpose of enabling any Urban Authority to regulate slaughter-houses within their district, the provisions of the Towns Improvement Clauses Act, 1847, with respect to slaughter-houses, shall be incorporated with this Act." 38 & 39 Vict. c. 55, s. 169.

Of the incorporated provisions of the 10 & 11 Vict. c. 34, s. 128 is in the following terms: 10 & 11 Vict. c. 34, s. 128.

"The Commissioners [Urban Sanitary Authority] shall, from time to time, by byelaws . . . make regulations for the licensing, registering, and inspection of the . . . slaughter-houses . . . and preventing cruelty therein, and for keeping the same in a cleanly and proper state, and for removing filth at least once in every twenty-four hours, and requiring them to be provided with a sufficient supply of water; and they may impose pecuniary penalties on persons breaking such byelaws; provided that no such penalty exceed for any one offence the sum of five pounds, and in the case of a continuing nuisance the sum of ten shillings for every day during which such nuisance shall be continued after the conviction for the first offence."

By the next section (129), it is provided that the "justices before whom any person is convicted of killing or dressing any cattle contrary to the provisions of this or the special Act [*i.e.*, the 38 & 39 Vict. c. 55], or of the non-observance of any of the byelaws or regulations made by virtue of this or the special Act, in addition to the penalty imposed on such person under the authority of this or the special Act, may suspend, for any period not exceeding two months, the licence granted to such person under this or the special Act, or in case such person be the owner or proprietor of any registered slaughter-house . . . may forbid, for any period not exceeding two 10 & 11 Vict. c. 34, s. 129.

months, the slaughtering of cattle therein; and such justices, upon the conviction of any person for a second or other subsequent like offence, may, in addition to the penalty imposed under the authority of this or the special Act, declare the licence granted under this or the special Act revoked, or if such person be the owner or proprietor of any registered slaughter-house, may forbid absolutely the slaughtering of cattle therein; and whenever the licence of any such person is revoked as aforesaid, or whenever the slaughtering of cattle in any registered slaughter-house . . . is absolutely forbidden as aforesaid, the Commissioners may refuse to grant any licence whatever to the person whose licence has been so revoked, or on account of whose default the slaughtering of cattle in any registered slaughter-house has been forbidden."

10 & 11 Vict. c. 34, s. 130.

Further by section 130 it is enacted that "every person who during the period for which any such licence is suspended, or after the same is revoked as aforesaid, slaughters cattle in the slaughter-house . . . to which such licence relates, or otherwise uses such slaughter-house . . . or allows the same to be used as a slaughter-house . . . , and every person who during the period that the slaughtering of cattle in any such registered slaughter-house . . . is forbidden as aforesaid, or after such slaughtering has been absolutely forbidden therein, slaughters any cattle in any such registered slaughter-house, shall be liable to a penalty not exceeding five pounds for such offence, and a further penalty of five pounds for every day on which any such offence is committed after the conviction for the first offence."

Anthony v. *Brecon Markets Company.*

In connection with these provisions, and those relating to the licensing and registration of slaughter-houses, in sections 125—127, the attention of the sanitary authority should be directed to the judgment of the Court of Exchequer Chamber in the case of Anthony *v.* The Brecon Markets Company (26 L. T. (N.S.) 982).

Powers of sanitary authority.

With reference to that judgment, a few observations may here be introduced in illustration of the nature and extent of the powers of the sanitary authority with regard to slaughter-houses.

It will be seen that the provisions of the Towns Improvement Clauses Act, 1847, incorporated with the Public Health Act, 1875 by section 169, recognize two classes of slaughter-houses, viz., slaughter-houses in use and occupation at the time of the passing of the "special Act," and slaughter-houses

not in use and occupation at that time. To the former class the requirements as to registration in section 127 are specially applicable. To the latter class the provisions as to licensing in sections 125—126 have direct reference.

Both classes may apparently be regulated by byelaws under section 128.

Structural requirements of slaughter-houses.

In framing a model series of byelaws under that enactment, the Board have considered that the statutory terms do not warrant the extension of the scope of the byelaws to regulations directly affecting the structure of the premises.

But as regards premises for which under section 126 the licence of the sanitary authority will be required, the Board have been advised that, in the exercise of the discretionary power of licensing which has been conferred upon the Sanitary Authority, the following rules as to site and structure should influence their decision upon each application for a licence :

1. The premises to be erected or to be used and occupied as a slaughter-house should not be within 100 feet of any dwelling-house; and the site should be such as to admit of free ventilation by direct communication with the external air on two sides at least of the slaughter-house.

2. Lairs for cattle in connection with the slaughter-house should not be within 100 feet of a dwelling-house.

3. The slaughter-house should not in any part be below the surface of the adjoining ground.

4. The approach to the slaughter-house should not be on an incline of more than one in four, and should not be through any dwelling-house or shop.

5. No room or loft should be constructed over the slaughter-house.

6. The slaughter-house should be provided with an adequate tank or other proper receptacle for water, so placed that the bottom shall not be less than six feet above the level of the floor of the slaughter-house.

7. The slaughter-house should be provided with means of thorough ventilation.

8. The slaughter-house should be well paved with asphalte or concrete, and laid with proper slope and channel

towards a gully, which should be properly trapped and covered with a grating, the bars of which should be not more than three-eighths of an inch apart.

Provision for the effectual drainage of the slaughter-house should also be made.

9. The surface of the walls in the interior of the slaughter-house should be covered with hard, smooth, impervious material, to a sufficient height.

10. No water closet, privy, or cesspool should be constructed within the slaughter-house.

There should be no direct communication between the slaughter-house and any stable, watercloset, privy, or cesspool.

11. Every lair for cattle in connection with the slaughter-house should be properly paved, drained, and ventilated.

No habitable room should be constructed over any lair.

JOHN LAMBERT,
Secretary.

Local Government Board,
25th July, 1877.

Authorities competent to adopt the byelaws.—The model byelaws as to slaughter-houses can only be adopted by an urban district council, or by a rural district council, invested by an order of the Local Government Board under s. 276 of the Public Health Act, 1875, with the powers of an urban district council under the second paragraph of s. 169 of the Act. Where application is made to the Local Government Board for such an order, the instructions contained in the Introduction should be observed.

Slaughter-houses to which the model byelaws apply.—By s. 4 of the Public Health Act, 1875, the term "slaughter-house" is defined as including the buildings and places commonly called slaughter-houses and knackers' yards, and any building or place used for slaughtering cattle, horses, or animals of any description for sale. "Slaughter-house," as used in the Towns Improvement Clauses Act, 1847, and the Local Government Act, 1858, includes not merely the premises where the actual slaughtering of cattle takes place, but also the premises used for processes connected with or incident to the slaughtering; and premises in use for these purposes, even though no actual slaughtering of cattle takes place within them, are used as slaughter-houses within s. 126 of the Towns Police Clauses Act, 1847 (*Hides* v. *Littlejohn* (1896), 74 L. T. 24; 60 J. P. 101; 18 Cox C. C. 219). "The provisions of the Towns Improvement Clauses Act, 1847, with respect to slaughter-houses" (which, by s. 169 of the Public Health Act, 1875, are incorporated with the latter Act, "for the purpose of enabling any urban

authority to regulate 'slaughter-houses' within their district"), refer, however, both to "slaughter-houses" and to "knackers' yards." This is the case, *inter alia*, with s. 128 of the Act of 1847; and hence, in the model series of byelaws framed under that enactment, it would seem that the term "slaughter-house" must be read as applying only to a place for the slaughtering of animals for the purpose of their flesh being used as butcher's meat. Within these limits, however, the model byelaws apply generally to all private slaughter-houses, and are not restricted in their application to houses where the carcase is intended for sale as human food, as in cases arising under s. 19 of the Markets and Fairs Clauses Act, 1847. That section enacts, *inter alia*, that "no person shall slaughter any cattle or dress any carcase for sale as human food or food of man in any place within the limits of the special Act other than a slaughter-house," etc.; and it was held under that section that to slaughter cattle on the private premises of an inhabitant, unless for sale as human food, was not illegal (*Elias* v. *Nightingale* (1858), 33 L. J. M. C. 151; 8 E. & B. 698; 4 Jur. (N.S.) 166; 6 W. R. 91). Such a case would be covered by the model byelaws. But the series does not apply to slaughter-houses provided by the district council. For the regulation of such slaughter-houses, byelaws are authorised by the first paragraph of s. 169 of the Act of 1875. For a model series of byelaws for the management of slaughter-houses so provided, see Model Byelaws, vol. ii.

Making of byelaws imperative.—The provisions of s. 128, as to the making of byelaws with regard to the several matters mentioned therein, appear to be not merely directory, but imperative. If such byelaws were not made, the enactment in s. 129 (cited in the above memorandum) would be inoperative in the district. There are no provisions either in the Act of 1847, or in that of 1875, respecting the "killing or dressing any cattle"; and hence the only conviction which will bring a person within the operation of the section referred to, so as to enable the justices, where necessary, to suspend or revoke his licence, is one for "the non-observance of any of the byelaws or regulations" made by virtue of the Act of 1847, or of 1875. It is not, however, imperative that pecuniary penalties should be imposed by the byelaws; and it will be seen that the model series imposes no such penalty for non-compliance with the licensing clauses (Nos. 1—4). If the regulations prescribed by those clauses are not observed, the district council have it in their power to refuse a licence for the erection, or the use and occupation of the premises, as the case may be.

Rules as to site and structure of slaughter-houses.—The rules on these subjects, embodied in the memorandum of the Local Government Board, reproduce briefly the principal recommendations of Dr. Ballard, F.R.S., in an official report to that Board * on Effluvium Nuisances arising in connection with the slaughtering of animals, which is more particularly referred to (*post*) in connection with the model series as to offensive trades.

Revocation of licences.—In connection with the provisions as to the suspension and revocation of licences contained in s. 129 of the Towns Improvement Clauses Act, 1847, reference may be made to s. 31 of the Public Health Acts Amendment Act, 1890, which is in force wherever Part III. of

* Annual Report of the Medical Officer of the Local Government Board for the year, 1876. [C.—1909.]

that Act has been adopted by an urban district council. This section provides for the revocation of the licence on the summary conviction of the occupier for selling or exposing for sale, or for having in his possession, or on his premises, the carcase of any animal, or any piece of meat or flesh, diseased or unsound, or unwholesome or unfit for the use of man as food.

Employing horses or cattle not intended for butcher's meat.—It may be mentioned that the 12 & 13 Vict. c. 92, s. 9, imposes a penalty on any person, who, having the management of any place for the purpose of slaughtering horses or other cattle, not intended for butcher's meat, shall use or permit to be used any horse or other cattle brought to such place for the purpose of being slaughtered. The section applies to private as well as to licensed slaughtering-houses. When, therefore, H. had the management of the kennels of a hunt, where there was a place used solely for the purpose of slaughtering horses sent as food for the hounds, and received a horse for that purpose, and permitted it to be worked, it was held that he was guilty of an offence under that section (*Colam* v. *Hall* (1871), L. R. 6 Q. B. 206 ; 40 L. J. M. C. 100 ; 23 L. T. 802 ; 19 W. R. 563).

There is no power to make a byelaw as to this matter.

Confirmation of the byelaws.—As to the confirmation of byelaws made under s. 128 of the Towns Improvement Clauses Act, 1847, by virtue of the incorporation of that enactment with the Public Health Act, 1875, see the Public Health (Confirmation of Byelaws) Act, 1884 (47 Vict. c. 12).

SERIES VI.—SLAUGHTER-HOUSES.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for draft forms on which to submit the byelaws for the Board's preliminary approval, before they are adopted by the local authority.*]

BYELAWS

MADE BY THE * WITH RESPECT TO SLAUGHTER-HOUSES.

Interpretation of terms.

1. Throughout these byelaws, the expression "the Council," means the * .

Interpretation of terms.—The above clause should be inserted although it does not, at present, form part of the model series as printed. The following clauses should be renumbered.

For the licensing, registering, and inspection of slaughter-houses, for preventing cruelty therein, for keeping the same in a cleanly and proper state, for removing filth at least once in every twenty-four hours, and requiring such slaughter-houses to be provided with a sufficient supply of water.

1. Every person who shall apply to the Council for a licence for the erection of any premises to be used and occupied as a slaughter-house shall furnish in the form hereunto appended a true statement of the particulars therein required to be specified. Application for licence to erect a slaughter-house.

Form of Application for a Licence to erect Premises for use and occupation as a Slaughter-house.

To the [Urban *or* Rural District *or* Town Council] of .

I, , of , , do hereby apply to you for a licence, in pursuance of the statutory provisions in that behalf, for the

* *Insert* "Urban [*or* Rural] District Council of "; *or* "Mayor, aldermen, and burgesses of the borough of , acting by the council."

erection of certain premises to be used and occupied as a slaughter-house; and I do hereby declare that to the best of my knowledge and belief the Schedule hereunto annexed contains a true statement of the several particulars therein set forth with respect to the said premises.

SCHEDULE.

1. Boundaries, area, and description of the proposed site of the premises to be erected for use and occupation as a slaughter-house.	
2. Description of the premises to be erected on such site: (*a.*) Nature, position, form, superficial area and cubical contents of the several buildings therein comprised. (*b.*) Extent of paved area in such buildings, and materials to be employed in the paving of such area. (*c.*) Mode of construction of the internal surface of the walls of such buildings, and materials to be employed in such construction. (*d.*) Means of water supply,—position, form, materials, mode of construction and capacity of the several cisterns, tanks, or other receptacles for water to be constructed for permanent use in or upon the premises. (*e.*) Means of drainage,—position, size, materials, and mode of construction of the several drains. (*f.*) Means of lighting and ventilation. (*g.*) Means of access for cattle from the nearest street or public thoroughfare. (*h.*) Number, position, and dimensions of the several stalls, pens, or lairs to be provided on the premises. (*i.*) Number of animals for which accommodation will be provided in such stalls, pens, or lairs, distinguishing— 1. Oxen. 2. Calves. 3. Sheep or lambs. 4. Swine.	

Witness my hand this day of 18 .

(*Signature of Applicant.*)

Address of Applicant.)

Applications for licences for the erection of slaughter-houses.—It is not absolutely necessary that a person intending to erect a new slaughter-house should obtain a licence for such erection ; but if he does not, he must take the risk of a licence for the "use and occupation" of the premises as a slaughter-house being refused, and consequently of the premises when completed being useless for the purpose for which they were intended. It is entirely within the discretion of the district council whether they will grant a licence to erect slaughter-house buildings ; and in considering an application for such licence they are bound to have regard to the fitness of the site, and of the buildings proposed to be erected, for the purpose. The intention of clause 1 of the model series is to secure that the application shall be accompanied by such particulars as will enable them to decide both questions. If the information given in the schedule appended to the application is insufficient, or if the site of the intended buildings is open to objection, or the structural details appear to be faulty, the council can refuse to grant a licence until more specific information is before them, or amended plans are submitted. The requirements of any byelaws as to new buildings which may be in force in the district must, of course, be complied with, so far as they are applicable, in the erection of the proposed slaughter-house ; and it may be assumed that proper plans will be deposited with the council, as a necessary preliminary to such erection, under a byelaw similar to No. 92 of the model series as to new streets and buildings (see p. 204). Generally, as to the points to be observed in connection with the licensing of slaughter-houses, reference may be made to the memorandum prefixed to the present series, and the note on p. 245. As pointed out on p. 245, the penalty clause of the series does not apply to those clauses (Nos. 1 to 4) which refer to licensing. A form of licence to erect a slaughter-house is prescribed by clause 3. See note on page 254, as to the duration of licences.

Application for licence to use and occupy slaughter-house.

2. Every person who shall apply to the Council for a licence for the use and occupation of any premises as a slaughter-house shall furnish in the form hereunto appended a true statement of the particulars therein required to be specified.

Form of Application for a Licence for the use and occupation of Premises as a Slaughter-house.

To the [Urban *or* Rural District *or* Town Council] of .

I, , of , , do hereby apply to you for a licence, in pursuance of the statutory provisions in that behalf, for the use and occupation as a slaughter-house of the premises herein-after described ; and I do hereby declare that to the best of my knowledge and belief the Schedule hereunto annexed contains a true statement

of the several particulars therein set forth with respect to the said premises.

SCHEDULE.

1. Situation and boundaries of the premises to be used and occupied as a slaughter-house.	
2. Christian name, surname, and address of the owner of the premises.	
3. Nature and conditions of applicant's tenure of the premises: (*a.*) For what term; and whether by lease or otherwise. (*b.*) Whether applicant is sole owner, lessee, or tenant; or whether applicant is jointly interested with any other person or persons, and if so, with whom.	
4. Description of the premises: (*a.*) Nature, position, form, superficial area, and cubical contents of the several buildings therein comprised. (*b.*) Extent of paved area in such buildings, and materials employed in the paving of such area. (*c.*) Mode of construction of the internal surface of the walls of such buildings and materials employed in such construction. (*d.*) Means of water supply,—position, form, materials, mode of construction and capacity of the several cisterns, tanks, or receptacles for water, constructed for permanent use in or upon the premises. (*e.*) Means of drainage,—position, size, materials, and mode of construction of the several drains. (*f.*) Means of lighting and ventilation - - (*g.*) Means of access for cattle from the nearest street or public thoroughfare. (*h.*) Number, position, and dimensions of the several stalls, pens, or lairs provided on the premises. (*i.*) Number of animals for which accommodation will be provided in such stalls, pens, or lairs, distinguishing— 1. Oxen. 2. Calves. 3. Sheep or lambs. 4. Swine.	

Witness my hand this day of 18 .

(*Signature of Applicant.*)

(*Address of Applicant.*)

Applications for licences for the use and occupation of slaughter-houses.—The form prescribed by clause 2 of this series, is adapted for use in respect of premises already existing which it is intended either to use for the first time as a slaughter-house, or to use afresh as a slaughter-house, in a case where (to use the words of WILLES, J., in the *Brecon Case* (*post*, p. 252)), "the abuse of the slaughter-house" has led to the suspension or abolition of a previous licence. As will be seen from the decision in that case, no licence for the use and occupation of premises as a slaughter-house will be required where a licence for the *erection* of the premises has been issued under s. 126 of the Towns Improvement Clauses Act, 1847, unless such last-mentioned licence should be suspended or revoked. A resolution of a committee, confirmed by the council and communicated to the parties, is equivalent to a licence (*Howarth* v. *Manchester Corporation* (*post*, p. 253)).

Licence for erection of slaughter-house.

3. Every person to whom the Council may have resolved that a licence be granted to erect premises for use and occupation as a slaughter-house shall be entitled to receive from the Council a licence in the form hereunto appended, or to the like effect.

Form of Licence to erect Premises for use and occupation as a Slaughter-house.

No. of licence .

Reference to folio in register .

District [*or* Borough] of .

Whereas application has been made to us, the [Urban *or* Rural District *or* Town Council] of , by , of , , for a licence to erect on a site within the said district [*or* Borough] certain premises for use and occupation as a slaughter-house:

Now, we, the said Council, in pursuance of the powers conferred upon us by the statutory provisions in that behalf, do hereby licence the said , of , , to erect for use and occupation as a slaughter-house upon the site defined or described in the Schedule hereunto annexed the premises whereof the description is set forth in the said Schedule.

SCHEDULE.

Boundaries, area, and description of the proposed site of the premises to be erected for use and occupation as a slaughter-house.	Description of the premises to be erected for use and occupation as a slaughter-house.

Given under the Common Seal of the [Urban *or* Rural District Council *or* Borough] of , this day of , in the year One thousand eight hundred and .

(L.S.)

Clerk to the [*Council* or *Town Clerk*].

Licence for the erection of a slaughter-house.—If, after considering an application for a licence to erect a slaughter-house, the district council determine to grant such licence, they will do so in the form prescribed by this clause, or in one to the like effect. The particulars necessary for the completion of the schedule will have been obtained in the schedule to the application (see clause 1). The importance of defining in the licence the limits of the site on which the buildings licensed are to be erected, and of including in the licence an adequate description of such buildings, may be illustrated by the decisions in the cases of the *Brighton (Town Council of)* v. *Stenning*, and *Hanman* v. *Adkins*. In *Brighton (Town Council of)* v. *Stenning* (1867), 31 J. P. 246 ; 15 L. T. (N.S.) 567, it appeared that S. had a slaughter-house for pigs, consisting of a yard, pig pens, cart shed, slaughter shed, and stable. After the Local Government Act, 1858, he obtained a licence which stated the animals to be slaughtered were pigs, but he turned the stable into a shed for slaughtering bullocks and sheep. On a summons for using a slaughter-house without a licence, the justices held that the shed for bullocks was part of the original premises, and the High Court held that this being a question of fact, no new licence was required for the premises. In *Hanman* v. *Adkins* (1876), 40 J. P. 744, a local Act incorporated the Towns Improvement Clauses Act, and H. duly registered his slaughter-house under that Act. Lately he had rebuilt a ruinous part of the premises, and also added a little to the area inclosed within the walls of the premises when rebuilt. The court held that the enlarged premises did not require a licence, as they continued, notwithstanding the addition and partial rebuilding, the same place which had been previously used.

A licence to erect a slaughter-house implies a licence to use such house as a slaughter-house when erected. "What is this licence to future slaughter-houses to include? It has been suggested that there was to be a licence for erection, and a subsequent licence for use when erected. Possibly in theory this might be maintained, but it would be a subtle refinement; and as it would tend to prevent people from spending money in erecting slaughter-houses which might be useless when completed, it ought not to be adopted. The true reading is that the licence to erect must *primâ facie* be a licence to erect a slaughter-house which shall be used as a slaughter-house, and that there are not to be two separate licences, one for erection and another for use" (WILLES, J., in *Anthony* v. *Brecon Markets Co.* (1872), L. R. 7 Ex. 399 ; 41 L. J. Ex. 201 ; 26 L. T. 979 ; 31 J. P. 200 ; 21 W. R. 27). "I quite agree that where the licence of the local board is required to erect a slaughter-house, it is a licence to erect, and when erected to use" (*ibid.*, BLACKBURN, J.). The *Brecon Case* was decided under the Towns Improvement Clauses Act, 1847, and a special Act, but the principle is equally applicable to cases arising under the Public Health Act, 1875, and the model byelaws.

A corporation was also the local board of health under the Public Health Act, 1848 (11 & 12 Vict. c. 63). By the Local Government Act, 1858 (21 & 22 Vict. c. 98), the clauses of the Towns Improvement Clauses Act, 1847, with respect to slaughter-houses were incorporated. The effect of the clauses as incorporated was to provide that no slaughter-house shall be erected or used without a licence from the local board. By a Market Act, subsequently passed, for the better management of the property of the corporation, a company was incorporated, in which certain property of the corporation was vested, and the Act provided that the company, with the consent of the corporation in writing under the hand of the town clerk, might erect and maintain slaughter-houses in the borough. The company erected a slaughter-

house, having previously obtained the consent of the corporation in a memorandum of a resolution under the hand of the clerk ; but the corporation, acting as a local board, afterwards refused to licence the slaughter-house. A., to whom the company had agreed to demise the tolls receivable under the Act for slaughtering cattle in the slaughter-house, brought an action against the company for not making a good title to the tolls. It was held that the consent given under the Market Act included the licence of the local board required by the Towns Improvement Clauses Act, 1847, s. 126 (*Anthony* v. *Brecon Market Co.* (*ante*, p. 252)).

A local Act empowered a town council to grant licences for the erection of slaughter-houses. A. applied for a licence. The market committee inspected the site, and recommended the grant. The committee passed a resolution to grant the licence, and communicated the same to A., and the resolution was confirmed by the town council. It was held, that though it was usual afterwards to grant a formal licence in a printed form, still the grant was complete on the confirmation of the resolution and the communication thereof to A., and operated as a licence (*Howarth* v. *Manchester Corporation* (1862), 6 L. T. (N.S.) 683).

A licence to a market company to erect a slaughter-house on a certain site does not authorise the company to erect and use a slaughter-house on another and entirely different site (*Hughes* v. *Trew* (1877), 36 L. T. 585 ; 41 J. P. 453).

Conditions of grant of licence.—The form of licence specifies no special conditions on which the licence is granted ; the conditions are compliance with the requirements of the byelaws. (See s. 129 of the Towns Improvement Clauses Act, 1847, and note, p. 245.)

As pointed out in the note above, a resolution of a committee confirmed by the council, and communicated to the grantee, is equivalent to a licence.

4. Every person to whom the Council may have resolved that a licence be granted for the use and occupation of any premises as a slaughter-house shall be entitled to receive from the Council a licence in the form hereunto appended, or to the like effect.

Licence for use and occupation of slaughter-house.

Form of Licence for the use and occupation of Premises as a Slaughter-house.

No. of licence .

Reference to folio in register .

District [*or* Borough] of .

Whereas application has been made to us, the [Urban *or* Rural District *or* Town Council] of , by , of , for a licence for the use and occupation of certain premises as a slaughter-house :

Now, we, the said Council, in pursuance of the powers conferred upon us by the statutory provisions in that behalf, do hereby licence

the said , of , , to use and occupy as a slaughter-house the premises whereof the situation and description are set forth in the Schedule hereunto annexed.

SCHEDULE.

Situation of the premises to be used and occupied as a slaughter-house.	Description of the premises to be used and occupied as a slaughter-house.

Given under the Common Seal of the [Urban *or* Rural District Council *or* Borough] of , this day of , in the year One thousand eight hundred and .

(L.S.)

Clerk to the [*Council* or *Town Clerk.*]

Licence for the use and occupation of a slaughter-house.—The provisions of this clause should be considered in connection with clause 2 and the note thereon (p. 251). The notes on clause 3 may also be referred to as being applicable *mutatis mutandis* to this clause also.

Duration of licences.—Except where s. 29 of the Public Health Acts Amendment Act, 1890, is in force, there appears to be no power under the general law for the issue of a licence for the use and occupation of a slaughter-house for a limited time. Where, however, Part III. of the Act of 1890 has been adopted by an urban district council, or where in a rural district s. 29 of that Act has been put in force by an order under s. 276 of the Public Health Act, 1875, licences for such use and occupation "shall be in force for such time or times only, not being less than twelve months, as the [urban] authority shall think fit to specify in such licences." Where this enactment is in operation, the forms of licences prescribed by the model byelaws will require some modification. Probably, also, some slight alterations should be made in the forms of application for licences, and in the form of register (*post*).

Change of occupation of slaughter-houses.—Section 30 (3) of the Public Health Acts Amendment Act, 1890, requires notice of that section to be endorsed on all licences granted after the adoption of Part III. of the Act. The section requires that upon any change of occupation of any building within an urban district, registered or licensed for use and used as a slaughter-house, the person thereupon becoming the occupier or joint occupier shall give notice in writing of the change of occupation to the inspector of nuisances. No addition to the model byelaws is necessary in connection with this enactment.

5. Every person who may have obtained from the Council, in accordance with the provisions of the byelaw in that behalf, a licence to erect any premises for the use and occupation as a slaughter-house, or a licence for the use and occupation of any premises as a slaughter-house, shall register such premises at the office of the Council. Registration of slaughter-houses.

He shall, for such purpose, apply, by notice in writing addressed to the clerk to the Council, to register such premises; and thereupon it shall be the duty of the clerk to the Council, within a reasonable time after the receipt of such notice in writing, to enter in a book to be provided by the Council in the form hereunto appended the particulars therein required to be specified.

FORM OF REGISTER OF SLAUGHTER-HOUSES.

District [*or* Borough] of .

Folio .

Date of Registration.	Date of Licence.	No. of Licence.	Christian Name, Surname, and Address of Owner or Proprietor of Slaughter-house.	Christian Name, Surname, and Address of Occupier of Slaughter-house.	Situation of Slaughter-house.	Number of Animals for which accommodation is provided on the Premises.			

Registration of slaughter-houses.—The registration of every slaughter-house existing as such at the time of the passing of the Public Health Act, 1875, is required by s. 127 of the Act of 1847, as incorporated with the Public Health Act. A slaughter-house which was not in use at the time referred to, or which, having been in use at that time, has not "so continued ever since," must, under s. 126, be licensed, but the statute does not expressly require it to be registered. Byelaws "for the . . . registering . . . of . . . slaughter-houses" may, however, be made, under s. 128, so as to affect slaughter-houses to which s. 126 applies, as well as to those within s. 127; and in regard to the former as well as to the latter class, the use of the register

will be found useful as supplying, in a compendious form, details which should be readily accessible to the members and officers of the district council, in the performance of their duties with respect to slaughter-houses.

Inspection of premises.

6. Every occupier of a slaughter-house shall, at all reasonable times, afford free access to every part of the premises to the medical officer of health, the inspector of nuisances, or the surveyor of the Council, or to any committee specially appointed by the Council in that behalf, for the purpose of inspecting such premises.

Inspection of slaughter-houses.—Attention should be called to the concluding words of this byelaw. Section 131 of the Towns Improvement Clauses Act, 1847, confers upon the inspector of nuisances, the medical officer of health, "or any other officer appointed by the [district council] for that purpose," a power of entry and inspection of slaughter-houses, with a view to the detection of cattle, or the carcase, or any part of the carcase, of any beast which is unfit for the food of man; and by s. 102 of the Public Health Act, 1875, a power of entry is given to the local authority, or any of their officers, as regards any premises, for the purpose of examining as to the existence of nuisances, and where necessary for the purpose of abating a nuisance thereon. The present clause assumes that only the officers named, or a committee specially appointed for the purpose, will act in the inspection of slaughter-house premises. It is scarcely expedient that every member of the council should be empowered to demand admission to the premises for purposes of inspection.

Watering of cattle.

7. Every occupier of a slaughter-house shall cause every animal brought to such slaughter-house for the purpose of being slaughtered, and confined in any pound, stall, pen, or lair upon the premises previously to being slaughtered, to be provided during such confinement with a sufficient quantity of wholesome water.

Prevention of cruelty in slaughter-houses.—Section 128 of the Towns Improvement Clauses Act, 1847, requires byelaws to be made for preventing cruelty in slaughter-houses. The clauses of the model series which deal with this part of the subject are so framed as not to include any matter for which specific provision is made by any general enactment for the prevention of cruelty to animals. They merely supplement the general law, by provisions in relation to matters which especially arise in connection with the preparation for slaughter and slaughtering of cattle. Clause 7 is one of these provisions, and a very necessary one, considering the distances which cattle may be driven (possibly in hot weather) before arriving at a slaughter-house. It is undesirable to prescribe, as is sometimes proposed, that animals in a slaughter-house shall not be kept without water for more than a certain number of hours. Such a form of byelaw must, almost of necessity, fail to meet the requirements of every case, while the more general terms of the model clause demand that every animal shall be provided with a sufficiency of wholesome water.

8. Every occupier of a slaughter-house and every servant of such occupier and every other person employed upon the premises in the slaughtering of cattle shall, before proceeding to slaughter any bull, ox, cow, heifer, or steer, cause the head of such animal to be securely fastened so as to enable such animal to be felled with as little pain or suffering as practicable, and shall in the process of slaughtering any animal use such instruments and appliances and adopt such method of slaughtering and otherwise take such precautions as may be requisite to secure the infliction of as little pain or suffering as practicable. Unnecessary suffering to be prevented.

Methods of slaughtering.—In framing their model clauses "for preventing cruelty," the Local Government Board have wisely abstained from suggesting that any particular method of slaughtering should be prescribed by the byelaws of local authorities. The present clause is couched in very general terms, but, as in the case of the previous clause, its usefulness might be diminished if it were more specific in its provisions. With regard to one matter, indeed, the byelaw is sufficiently definite, viz., the fastening of the heads of bullocks, etc., before felling them, so that the slaughterer may not miss his aim through any movement on the part of the animal. As to the necessity of this there is no difference of opinion.

9. Every occupier of a slaughter-house shall cause the means of ventilation provided in or in connection with such slaughter-house to be kept at all times in proper order and efficient action; and so that the ventilation shall be by direct communication with the external air. Maintenance of ventilation.

10. Every occupier of a slaughter-house shall cause the drainage provided in or in connection with such slaughter-house to be kept at all times in proper order and efficient action. Drainage to be kept in order.

11. Every occupier of a slaughter-house shall cause every part of the internal surface of the walls and every part of the floor or pavement of such slaughter-house to be kept at all times in good order and repair, so as to prevent the absorption therein of any blood or liquid refuse or filth which may be spilled or splashed thereon, or any offensive or noxious matter which may be deposited thereon or brought in contact therewith. Slaughter-house to be kept in good repair.

He shall cause every part of the internal surface above the floor or pavement of such slaughter-house to be thoroughly washed with hot lime-wash at least four times in every year; that is to say, at least once during the periods between the *first* Lime-washing.

and *tenth* of *March*, the *first* and *tenth* of *June*, the *first* and *tenth* of *September*, and the *first* and *tenth* of *December* respectively.

Cleansing after slaughtering.

He shall cause every part of the floor or pavement of such slaughter-house, and every part of the internal surface of every wall on which any blood or liquid refuse or filth may have been spilled or splashed, or with which any offensive or noxious matter may have been brought in contact during the process of slaughtering or dressing in such slaughter-house, to be thoroughly washed and cleansed within three hours after the completion of such slaughtering or dressing.

Ventilation, drainage, cleansing, and repair of slaughter-houses.—The byelaws cannot require structural works in connection with slaughter-houses, but they may and should provide "for keeping the same in a cleanly and proper state"; and it is absolutely necessary to a slaughter-house being so kept that the means of ventilation and drainage should at all times be in proper order and efficient action, and the building generally in a good state of repair. The model byelaws require this; and although they do not refer to the execution of structural works, it would seem that if the means of ventilation or drainage required renewing in order to make it possible that they should be kept in efficient action, the district council could indirectly, by means of these byelaws, practically enforce the execution of such works as were necessary to the proper ventilation or drainage of the premises. At the same time it should be remembered that, speaking generally, the opportunity for insisting on the execution of any necessary structural works or alterations in a slaughter-house only presents itself to the council when application is made to them to licence the slaughter-house. As to this, reference may again be made to the memorandum of the Local Government Board prefixed to the model series, and to the note on p. 249. The second and third paragraphs of clause 11 are clearly provisions for keeping the slaughter-house in a cleanly and proper state, and they are based on the specific recommendations of Dr. Ballard in his report on Effluvium Nuisances referred to at p. 245. The object of requiring the limewashing to be performed between certain specified dates is to enable the officers of the district council by inspection between those dates to satisfy themselves that the requirement has been complied with.

Dogs not to be kept in slaughter-house.

12. An occupier of a slaughter-house shall not at any time keep any dog, or cause or suffer any dog to be kept in such slaughter-house.

Keeping of other animals therein.

He shall not at any time keep, or cause or suffer to be kept in such slaughter-house any animal of which the flesh may be used for the food of man, unless such animal be so kept in preparation for the slaughtering thereof upon the premises.

He shall not at any time keep any cattle, or cause or suffer any cattle to be kept in such slaughter-house for a longer

period than may be necessary for the purpose of preparing such cattle, whether by fasting or otherwise, for the process of slaughtering.

If, at any time, he keep, or suffer to be kept in such slaughter-house any cattle for the purpose of preparation, whether by fasting or otherwise, for the process of slaughtering, he shall not cause or suffer such cattle to be confined elsewhere than in the pounds, stalls, pens, or lairs provided on the premises.

Danger of keeping dogs in slaughter-houses.—The first paragraph of clause 12 of the model byelaws is one of the most important in the series. It has for its object the prevention of the spread of parasitic disease, highly injurious to man, by means which will at once suggest themselves to the medical officers of local authorities. For example, the *taenia echinococcus* specially affects the dog. The ova may find their way into the human body by means of the drinking water, or by the leaves and stems of young vegetables. The *cysticercus* developed from these ova is in the human subject a dangerous parasite known under the name of *hydatid*. The disease is liable to affect sheep, the *echinococci* of which, developed in the liver or other organs, are devoured as offal by dogs which are allowed to enter the slaughter-house.

In addition to this risk, the exclusion of dogs from slaughter-houses is clearly desirable on the grounds of cleanliness. The byelaw is obviously one for keeping slaughter-houses "in a cleanly and proper state."

Prohibition of keeping fowls.—On medical grounds it is desirable to secure that fowls shall not be kept in a slaughter-house, as the birds are liable to develope tubercle through eating tuberculous offal, etc., which they may pick up in the slaughter-house.

It may be considered that clause 12 of the model byelaws does not very clearly (if at all) provide against the danger above indicated ; and to meet this point, the following addition may be suggested for insertion between the second and third paragraphs of the clause :

Keeping of fowls.

He shall not at any time keep any fowl, or cause or suffer any fowl to be kept in such slaughter-house.

Removal of hides, offal, etc.

13. Every occupier of a slaughter-house shall cause the hide or skin, fat, and offal of every animal slaughtered on the premises to be removed therefrom within twenty-four hours after the completion of the slaughtering of such animal.

Removal of hides, offal, etc.—There should be no difficulty in securing the removal of the hides and offal of slaughtered beasts from the slaughter-house, within the time prescribed by this byelaw. If kept longer, special precautions would be necessary for the prevention of nuisance, such, for example, as the brushing of the hides on the fleshy side with some antiseptic solution. While retained in the slaughter-house, the fat should be deposited

in a cool place, which is freely exposed to the air. The offal, on the other hand, should be placed in galvanized iron receptacles and closely covered, ready for immediate removal.

Water supply.

14. Every occupier of a slaughter-house shall cause the means of water supply provided in or in connection with such slaughter-house to be kept, at all times, in proper order and efficient action, and shall provide for use on the premises a sufficient supply of water for the purpose of thoroughly washing and cleansing the floor or pavement, every part of the internal surface of every wall of such slaughter-house, and every vessel or receptacle which may be used for the collection and removal from such slaughter-house of any blood, manure, garbage, filth, or other refuse products of the slaughtering of any cattle or the dressing of any carcase on the premises.

Water supply of slaughter-houses.—The water supply of a slaughter-house being of the first importance, with a view to its being kept "in a cleanly and proper state," careful attention should be given to the matter by the local authority before issuing any licence under s. 126 of the Towns Improvement Clauses Act, 1847. Proper provision having been made under this head, clause 14 of these byelaws requires that the means of supply shall be kept in proper order, and that the quantity of water available shall be sufficient for the purposes of paragraph 3 of clause 11, and the corresponding paragraph of clause 15.

Collection and removal of blood, etc.

15. Every occupier of a slaughter-house shall provide a sufficient number of vessels or receptacles, properly constructed of galvanized iron or other non-absorbent material, and furnished with closely fitting covers, for the purpose of receiving and conveying from such slaughter-house all blood, manure, garbage, filth, or other refuse products of the slaughtering of any cattle or the dressing of any carcase on the premises.

He shall forthwith upon the completion of the slaughtering of any cattle or the dressing of any carcase in such slaughter-house cause such blood, manure, garbage, filth, or other refuse products to be collected and deposited in such vessels or receptacles, and shall cause all the contents of such vessels or receptacles to be removed from the premises at least once in every twenty-four hours.

Cleansing of vessels used in such collection and removal.

He shall cause every such vessel or receptacle to be thoroughly cleansed immediately after such vessel or receptacle shall have been used for such collection and removal, and shall cause every

such vessel or receptacle when not in actual use to be kept thoroughly clean.

Vessels for collection and removal of blood, etc.—Dr. Ballard, in the report referred to at p. 245, urges that care should be taken, during the process of slaughtering, to prevent the discharge of blood and other animal matters upon the floor of the slaughter-house, that the emptying of the contents of the viscera should be performed in a separate place, and that all filth should be swept up and taken away at short intervals. Blood, offal, dung, and other garbage, should always be placed in vessels such as are required to be provided by this byelaw, and, without unnecessary delay, removed in those vessels from the premises. The clause requires such removal "at least once in every twenty-four hours," and the terms of s. 128 of the Towns Improvement Clauses Act, 1847, do not admit of any other period being specified. There is usually a sufficient demand for the offal, gut, blood, and other refuse products of slaughtering, to render compliance with these requirements an easy matter. But in any case, they should be regularly enforced for the keeping of the slaughter-house in a cleanly and proper state.

Nuisances arising from slaughter-house filth.—"The essentials of slaughtering, so as to avoid nuisances, are scrupulous cleanliness of the slaughter-house and pound, of the atmosphere of both, and of all utensils, and the speedy removal of all decomposable matters" (Report of Dr. Ballard on Effluvium Nuisances, as to which see p. 245). An addition to clause 15 of the model series of byelaws is sometimes proposed, requiring the refuse matters referred to in the byelaw to be removed to a place away from the slaughter-house, and at a distance from houses. It should, however, be observed that the byelaws authorised by s. 128 of the Towns Improvement Clauses Act, 1847, cannot regulate matters outside the slaughter-house. "The prevention of nuisances arising from . . . [slaughter-house] filth" should be dealt with by byelaws under the second paragraph of s. 44 of the Public Health Act, 1875 (see clauses 4—9 of the model series as to nuisances, pp. 33—40, and the note, p. 30, as to byelaws under s. 26 (1) of the Public Health Acts Amendment Act, 1890). Reference may also be made to the provisions of s. 28 of the Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89), incorporated with the Public Health Act, 1875, by s. 171 of that Act.

Penalties.

16. Every person who shall offend against any of the foregoing byelaws for the registering and inspection of slaughter-houses, for preventing cruelty therein, for keeping the same in a cleanly and proper state, for removing filth at least once in every twenty-four hours, and for requiring such slaughter-houses to be provided with a sufficient supply of water, shall be liable for every such offence to a penalty of *five pounds*, and in the case of a continuing nuisance to a penalty of *ten shillings* for every day during which such nuisance shall be continued after the conviction for the first offence:

Provided nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may if they think fit, adjudge

the payment as a penalty of any sum less than the full amount of the penalty imposed by this byelaw.

Application of penalty clause.—The penalty clause of this series applies to an infraction of any of the byelaws comprised in the series, except those as to the licensing of slaughter-houses (Nos. 1 to 4). An explanation of this is given in a note on p. 245.

A person using the premises is liable. An owner may "use" by letting others come and slaughter on the premises (*cf. R.* v. *Heyworth* (1866), 14 L. T. (N.S.) 600; 30 J. P. 423). A market company, after the Public Health Act, 1848, had been applied to the district, erected a building in which they allowed persons to slaughter cattle on the payment of two shillings a head, the company finding the tackle attached to the building, but the persons slaughtering bringing their own implements. The company did not obtain the sanction of the local board, and it was held that they were liable under s. 126 of the Towns Improvement Clauses Act, 1847 (*Liverpool New Cattle Company* v. *Hodson* (1867), 2 Q. B. 131; 36 L. J. M. C. 30; 15 L. T. 534; 15 W. R. 563; 31 J. P. 245).

In *R.* v. *Raynor* (1898), 62 J. P. 793, the prisoner was convicted of perjury for falsely swearing that premises, which had neither been registered nor licensed as a slaughter-house, had not been used for slaughtering cattle, when in fact they had been so used.

Liability for servants' acts.—Certain byelaws made it an offence for the licensed occupier of a slaughter-house to slaughter sheep in the pound of the slaughter-house or in view of other sheep. During the absence of the licensed occupier of the slaughter-house, his foreman, in direct disobedience of his orders, and in order to save himself trouble, slaughtered a sheep in the pound in view of other sheep. It was held that the licensed occupier was guilty of an offence under the byelaws, for he was liable for the act of his servant, that act having been committed within the general scope of his employment, although contrary to the orders of his master (*Collman* v. *Mills*, [1897] 1 Q. B. 397; 61 J. P. 102; 66 L. J. Q. B. 170; 75 L. T. 590; 18 Cox C. C. 481; 13 T. L. R. 122).

Amount of penalties.—The amounts inserted in the byelaw are those mentioned in s. 128 of the Towns Improvement Clauses Act, 1847. They should not be increased.

Repeal of Byelaws.

Repeal.

17. From and after the date of the confirmation of these byelaws, the byelaws relating to slaughter-houses, which were made on the day of in the year one thousand eight hundred and by the and were confirmed on the day of in the year one thousand eight hundred and by [one of Her Majesty's Principal Secretaries of State] [the Local Government Board] shall be repealed.

Repeal of byelaws.—If there are in force in the district any byelaws with respect to slaughter-houses, and the district council are desirous of repealing such byelaws, the blanks in this clause should be filled, and the clause added to the series.

SERIES VII.

HACKNEY CARRIAGES.

HACKNEY CARRIAGES.

MEMORANDUM.

By section 171 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), it is enacted that the provisions of the Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89), with respect to certain matters, among which are included hackney carriages, shall, for the purpose of regulating such matters in urban districts, be incorporated with the Public Health Act, 1875. 10 & 11 Vict c. 89; 38 & 39 Vict. c. 55, s. 171.

In two important particulars the incorporated provisions are amended by section 171. The expression "within the prescribed distance" which frequently occurs in those provisions, and of which no interpretation was supplied by the Local Government Acts, is now defined as meaning within any urban district. The effect of this amendment is to obviate much uncertainty as to the limits within which the power of the Sanitary Authority to regulate hackney carriages could be exercised.

An amendment has also been introduced with the view of limiting the duration of the licences of drivers of hackney carriages. In this respect the licences of drivers will be held under the same conditions as those formerly applicable to the licences of proprietors only, that is to say, a driver's licence will be in force for one year only from the date of the licence, or until the next general licensing meeting, where a day for such meeting is appointed.

In connection with the subject of byelaws the provisions of sections 38 and 68 of the 10 & 11 Vict. c. 89 may be specially considered.

Of these sections the former supplies the definition of a "hackney carriage," and is in the following terms:— Definition of "hackney carriage."

> "Every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street within the prescribed distance [*i.e.*, within any urban district (38 & 39 Vict. c. 55, sect. 171)], and

every carriage standing upon any street within the prescribed distance, having thereon any numbered plate required by this or the special Act to be fixed upon a hackney carriage, or having thereon any plate resembling or intended to resemble any such plate as aforesaid, shall be deemed to be a hackney carriage within the meaning of this Act; and in all proceedings at law or otherwise the term 'hackney carriage' shall be sufficient to describe any such carriage; provided always, that no stage coach used for the purpose of standing or plying for passengers to be carried for hire at separate fares, and duly licensed for that purpose, and having thereon the proper numbered plates required by law to be placed on such stage coaches, shall be deemed to be a hackney carriage within the meaning of this Act."

A doubt having arisen as to whether, since the passing of the 32 Vict. c. 14, the proviso in section 38 of the 10 & 11 Vict. c. 89 still operates so as to exclude from the class of hackney carriages the stage coaches therein described, the Board found it necessary to consult the law officers of the Crown upon the question.

The Board have been advised that, notwithstanding the 32 Vict. c. 14, a stage coach or carriage standing or plying for passengers to be carried for hire at separate fares cannot be deemed a hackney carriage within the meaning of the 10 & 11 Vict. c. 89, sect. 38, and that for the regulation of such stage coaches the Sanitary Authority are not empowered to make byelaws for any of the purposes specified in section 68.

10 & 11 Vict. c. 89, s. 68.

By the last-mentioned section it is enacted that the Commissioners (Urban Sanitary Authority) may "from time to time (subject to the restrictions of this and the special Act) make byelaws for all or any of the purposes following; (that is to say),

"For regulating the conduct of the proprietors and drivers of hackney carriages plying within the prescribed distance [*i.e.*, within any urban district (38 & 39 Vict. c. 55, sect. 171)], in their several employments, and determining whether such drivers shall wear any and what badges, and for regulating the hours within which they may exercise their calling:

"For regulating the manner in which the number of each carriage corresponding with the number of its licence shall be displayed:

"For regulating the number of persons to be carried by such hackney carriages, and in what manner such number is to be shown on such carriage (*sic*), and what number of horses or other animals is to draw the same, and the placing of check strings to the carriages, and the holding of the same by the driver, and how such hackney carriages are to be furnished or provided:

"For fixing the stands of such hackney carriages, and the distance to which they may be compelled to take passengers, not exceeding the prescribed distance:

"For fixing the rates or fares, as well for time as distance, to be paid for such hackney carriages within the prescribed distance, and for securing the due publication of such fares:

"For securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof."

Number of persons to be carried by hackney carriage.

For all these purposes, with one exception, provision has been made in the model byelaws. The Board have not thought it necessary to suggest any byelaw for regulating the manner in which the number of persons to be carried by a hackney carriage is to be shown on the carriage. For this purpose section 51 of the 10 & 11 Vict. c. 89 fully provides.

JOHN LAMBERT,
Secretary.

Local Government Board,
25th July, 1877.

Local authorities competent to make the byelaws.—As s. 171 of the Public Health Act, 1875, incorporates the provisions of the Town Police Clauses Act, 1847, with respect to hackney carriages, for the purpose of regulating such carriages in urban districts only, it will be necessary for any rural district council desirous of adopting the model byelaws on the subject, to apply to the Local Government Board to be invested with the powers of an urban authority in the matter. In connection with any such application the instructions contained in the Introduction should be observed. Byelaws on this subject cannot be made by any district council within the limits of the metropolitan police district, by reason of the special provisions in force with respect to hackney carriages within that area. As regards other places, the model byelaws appear to incorporate the most important of these provisions so far as they relate to matters within the scope of s. 68 of the Act of 1847.

Licensing.—Section 68 of the Town Police Clauses Act, 1847, does not authorise the making of any byelaws with reference to the licensing of hackney

carriages, or of the drivers of such carriages. The provisions on this subject are contained in ss. 37 to 50 inclusive, of the Act of 1847, and the last paragraph of s. 171 of the Public Health Act, 1875.

To what carriages the byelaws apply. — As pointed out in the memorandum of the Local Government Board, the present series of byelaws is inapplicable to stage coaches standing or plying for passengers to be carried for hire at separate fares. Except under some local enactment, byelaws as to such vehicles can only be made under s. 6 of the Town Police Clauses Act, 1889. Subject to this, however, any wheeled carriage answering the description in s. 38 of the Act of 1847 (see *ante*, p. 265), is to be deemed to be a hackney carriage ; and the model series is drawn so as to include not only every kind of wheeled vehicle to which the definition in that section applies, and which is drawn by horses, ponies, or mules, but also to donkey-carriages, goat-chaises, and bath chairs. In *Hickman* v. *Birch* (1889), 24 Q. B. D. 172 ; 59 L. J. M. C. 22 ; 62 L. T. 113 ; 54 J. P. 406, a case arising under the Customs and Inland Revenue Act, 1888, where "hackney carriage" means "any carriage standing or plying for hire," it was held that an ordinary omnibus running along a fixed route is a "hackney carriage" within the meaning of that Act. In *Bateson* v. *Oddy* (1874), 43 L. J. M. C. 131 ; 30 L. T. 712 ; 22 W. R. 703, it was held under a local Act (which did not define the expression "hackney carriage") that a hackney carriage is one which is offered for public hire to anyone who chooses to engage it, though it stands for that purpose in a private yard ; it is not necessary that it should be exposed for hire in the public streets. See also *Cloud* v. *Turfery* (1824), 9 Moore, 595 ; 2 Bing. 318 ; 3 L. J. (o.s.) C. P. 16.

The model series of byelaws issued by the Local Government Board do not include any byelaws as to omnibuses ; but see Model Byelaws, vol. ii.

With regard to "auto-cabs," see the Locomotives on Highways Act, 1896 (59 & 60 Vict. c. 36), under which such cabs are to be deemed carriages within the meaning of any Act of Parliament, whether public, general, or local, and of any rule, regulation, or byelaw made under any Act of Parliament ; and if used as carriages of any particular class, are to be deemed to be carriages of that class, and the law relating to carriages of that class is to apply accordingly. Regulations affecting such vehicles were made by the Local Government Board, under s. 6 of this Act, on November 9th, 1896. See notes on clauses 9, 21, 23, of the present series, as regards certain matters dealt with in these regulations. The regulations have full effect notwithstanding anything in any other Act, whether general or local, or any byelaws or regulations made thereunder (59 & 60 Vict. c. 36, s. 6 (2)).

Licence.—The council have a discretion to license such number of hackney carriages to ply within their area as they think fit. On this point, see the Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89), ss. 37 *et seq.*

A licence for hackney carriages, granted by the Commissioners of Stamps under 2 & 3 Will. 4, c. 120, does not dispense with the necessity of a licence under the Town Police Clauses Act, 1847 ; the first being required for the purpose of revenue, the second for the purpose of police (*Buckle* v. *Wrighton*, (1864), 5 B. & S. 854 ; 34 L. J. M. C. 43 ; 11 Jur. (N.S.) 280 ; 11 L. T. 341 ; 13 W. R. 92).

The council have also a discretion as to the persons whom they shall licence as drivers (Town Police Clauses Act, 1847, ss. 46 *et seq.* (*cf. Ex parte Mitcham* (1864), 5 B. & S. 585 ; 33 L. J. Q. B. 325 ; 10 Jur. (N.S.) 1254 ; 10 L. T. 537 ;

12 W. R. 983 ; *Banton* v. *Davies* (1891), 56 J. P. 294 ; 66 L. T. 192 ; 17 Cox C. C. 469)). The council may require the applicant to attend in person (*Banton* v. *Davies*, *supra*).

An information was laid by an inspector against the defendant for unlawfully driving a stage coach without having obtained a licence. The defendant was in the employment of a carriage proprietor as a stage coach driver. The licensing committee of the council passed a resolution requiring drivers who desired their licences renewed to apply to the committee in person. The manager for the proprietor applied to the licensing committee for the renewal of, amongst others, the defendant's licence. The committee refused to consider any application unless the applicant attended personally. No complaint was made against the defendant personally. The defendant subsequently acted as driver without a licence. The justices held that the defendant had failed to obtain a licence in consequence of the committee refusing to hear his application, although they had no complaint against him, and that under the circumstances the charge was trivial, and they accordingly dismissed it. On appeal, the High Court held that the justices were wrong, and should have convicted, for there had been a breach of the law, and that the council had a right to insist on the personal attendance of the applicants, the possession of a driver's licence being a personal privilege (*Banton* v. *Davies*, *supra*).

Under s. 48 of the Town Police Clauses Act, 1847, the proprietor retains possession of the driver's licence whilst the driver remains in his employ, and must produce it before justices on complaint. He is not justified in writing on the licence the ground on which he discharged a conductor (*Rogers* v. *Macnamara* (1853), 14 C. B. 27 ; 2 C. L. R. 569 ; 23 L. J. C. P. 1 ; 17 Jur. 1166 ; 2 W. R. 19), and it is unnecessary to allege that the words were written maliciously (*Hurrell* v. *Ellis* (1845), 2 C. B. 265 ; 15 L. J. C. P. 18 ; 9 Jur. 1013. See also *Norris* v. *Birch*, [1895] 1 Q. B. 639 ; 64 L. J. M. C. 91 ; 72 L. T. 491 ; 43 W. R. 271 ; 15 R. 222 ; 18 Cox C. C. 123).

The council may suspend or revoke the licence of a proprietor or driver on a second conviction (Town Police Clauses Act, 1847, s. 50).

Standing or plying for hire.—These words mean that the carriage is at the disposal of any one of the public who may think fit to hire it (*cf.* KELLY, C. B., in *Case* v. *Storey* (1869), L. R. 4 Ex. 319 ; 38 L. J. M. C. 113 ; 20 L. T. 618 ; 17 W. R. 802 ; 33 J. P. 470). Accordingly, where a cabman was standing with a hackney carriage ready for the conveyance of passengers, and was hailed by a person, upon which he drove the carriage across the street, and took up the person so hailing him, this was held to be a plying for hire (*Skinner* v. *Usher* (1872), L. R. 7 Q. B. 423 ; 41 L. J. M. C. 158 ; 26 L. T. 430 ; 20 W. R. 659). M., failing to obtain a licence for an omnibus, as required by the Town Police Clauses Act, 1847, s. 45, started an omnibus which went on the same route, and affixed notices that "this bus is free of charge, but voluntary contributions will be welcomed." The result was that passengers paid nearly the same amount as if M. had been licensed. It was held that M. "plied for hire" (*Cocks* v. *Mayner* (1894), 10 R. 467 ; 58 J. P. 104 ; 70 L. T. 403 ; 17 Cox C. C. 745).

By s. 38 of the Town Police Clauses Act, a licence is required for every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street, and "street," as defined by s. 3 of that Act, extends to and includes any road, square, court, alley, and thoroughfare, or public passage within the limits of the special Act (*i.e.*, the urban district (Public Health Act, 1875, s 171)). It was held, under the Hackney Carriage

Acts (1 & 2 Will. 4, c. 22 and 16 & 17 Vict. c. 33), where the expression is "in any public street or place," that a hackney carriage, while on the premises of a railway company, by their leave, for the accommodation of passengers by their trains, is not plying for hire in a street, the stations being private property (*Case* v. *Storey*, *ante*, p. 269). It follows that a driver of a carriage cannot under those Acts be compelled to convey any person desirous of hiring it on private property (*ibid.*).

"Street," in this connection, means a place over which the public have a right of passage. A piece of ground adjoining a railway station, and belonging to the company, metalled and separated from the highway only by a gutter, was used as an approach to the railway station. Private carriages were allowed to stand there, but no hackney or public carriages except those of the appellant, the appellant, by agreement with the company, having the sole right of standing carriages there for the purpose of plying for hire. The appellant having been convicted in a penalty for allowing his carriages to ply there for hire without a licence, it was held that the place was not a street within s. 3 of the Town Police Clauses Act, 1847, the public having no right of passage over it; the conviction was therefore wrong (*Curtis* v. *Embery* (1872), L. R. 7 Ex. 369; 42 L. J. M. C. 39; 21 W. R. 143).

The Town Police Clauses Act, 1889 (52 & 53 Vict. c. 14) amends the provisions relating to hackney carriages of the Town Police Clauses Act, 1847. The term "omnibus," as used in that Act, includes "every omnibus, char-à-banc, waggonette, brake, stage coach, and other carriage plying or standing for hire by or used to carry passengers at separate fares to, from, or in any part of the prescribed distance" (*i.e.*, the urban district (Public Health Act, 1875, s. 171)), but does not include a tram car; a carriage starting from or previously hired for the particular passengers thereby carried at any livery stable yard (within the prescribed distance) whereat horses are stabled and carriages let for hire, the said carriage starting from the stable yard, and being *bonâ fide* the property of the occupier thereof, and not standing or plying for hire within the district; an omnibus belonging to or hired by a railway company for conveying passengers to or from any railway station of the company, and not standing or plying for hire within the district; and an omnibus starting from outside the district, and bringing passengers within the district, and not standing or plying for hire within the district. It will be observed that the words are not, as in the Act of 1847, "standing or plying for hire *in a street*," but simply "standing or plying for hire." An omnibus may therefore be standing or plying for hire while it is on private property, such as a railway station. The decisions under the Metropolitan Public Carriage Act, 1869 (32 & 33 Vict. c. 115), where there is also no modifying expression such as "in a street," may be referred to, as illustrating the effect of this enactment. A carriage, whilst on the premises of a railway company, under a contract with them to await the arrival of their trains, for the conveyance of any passenger who chooses to hire it, is plying for hire within the Metropolitan Carriage Act, 1869; and is therefore a hackney carriage, and must be licensed (*Clarke* v. *Stanford* (1871), L. R. 6 Q. B. 359; 40 L. J. M. C. 151; 24 L. T. 389; 19 W. R. 846; 35 J. P. 695). Cockburn, C. J., laid it down, that "where a person has a carriage ready for the conveyance of passengers, in a place frequented by the public, he is plying for hire, although the place is private property. The public is entitled to travel by railway, and has a right to pass over the premises of the company to get out, and if a man is standing on these premises with his carriage to take the public, he is plying for hire." This case was followed in *Allen* v. *Tunbridge* (1871), L. R.

6 C. P. 481; 40 L. J. M. C. 197; 35 J. P. 695, where the circumstances were similar. In *Foinett* v. *Clark and Another* (1877), 41 J. P. 359, the appellant C. was a job master, and rented from a railway company a portion of an office at a station in the metropolis. He also paid nine shillings a week for the exclusive use of a strip of ground inside the station, opposite another strip, also inside the station, where certain hackney and private carriages were allowed to wait for passengers arriving by rail. On the portion exclusively used by him, C. kept landaus and broughams ready horsed for the convenience of travellers who might wish for vehicles of a superior class. L., the driver, who was the other appellant, had orders not to solicit custom, but to direct any person who wished to hire him to the office where a ticket was obtained, filled up with the name of the hirer, the date, etc. It was held that both C., as owner, and L., as the driver, were liable for having an unlicensed hackney carriage plying for hire.

Number of persons to be carried.—Section 51 of the Town Police Clauses Act, 1847, (referred to in the last paragraph of the above memorandum) requires the number of persons to be carried by a hackney carriage to be painted on a plate placed on some conspicuous place on the outside of such carriage, and s. 52 imposes a penalty for non-compliance with this requirement. A byelaw "for regulating . . . in what manner such number is to be shown on such carriage," appears therefore to be quite unnecessary.

Confirmation of the byelaws.—Byelaws made under s. 68 of the Town Police Clauses Act, 1847, by virtue of the incorporation of that Act with the Public Health Act, 1875, require the confirmation of the Local Government Board, and do not require any other confirmation, allowance or approval (47 & 48 Vict. c. 12).

SERIES VII.—HACKNEY CARRIAGES.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for draft forms on which to submit the byelaws for the Board's preliminary approval before they are adopted by the local authority.*]

BYELAWS

MADE BY THE * WITH RESPECT TO HACKNEY CARRIAGES IN THE † .

Interpretation of terms.

Interpretation.

1. Throughout these byelaws the expression "the Council," means the * , and the expression "the District" means the † .

Interpretation of terms.—This clause should be inserted, although it does not at present form part of the model series as printed. The following clauses should be renumbered.

For regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges, and for regulating the hours within which they may exercise their calling.

Conduct of proprietors and drivers.

1. Every proprietor or driver of a hackney carriage shall, at all times, when standing, plying, or driving for hire, conduct himself in an orderly manner, and with civility and propriety towards every person seeking to hire, or hiring, or being conveyed in such carriage; and shall comply with every reasonable requirement of any person hiring or being conveyed in such carriage.

Byelaws for regulating the conduct of proprietors and drivers.—In framing the model clauses for regulating the conduct of proprietors and

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* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or*, "Urban [*or* Rural] District Council of "; *as the case may be.*

† *Insert name of borough or urban or rural district, or if the byelaws are to apply to part only of a rural district,* "that portion of the Rural District of which comprises the contributory places of "; *as the case may be.*

drivers of hackney carriages, the Local Government Board have construed the term "conduct" in a wider sense than that in which it would ordinarily be used. The fifteen clauses which they have prepared under this head, not only forbid disorderly behaviour on the part of proprietors and drivers, and require them to be civil towards persons hiring or seeking to hire their carriages; but the clauses provide as to such matters as the feeding of horses in the streets, the placing of carriages on stands, the rate of speed where the hiring is by time, the conveyance of dead bodies in carriages, the lighting of lamps, and the condition of horses and harness. Section 61 of the Town Police Clauses Act provides a penalty for drunkenness, wanton and furious driving, and other wilful misconduct on the part of drivers. See also s. 63, as to compensation for damage to persons or property caused by the drivers of carriages let to hire. Other provisions, affecting the conduct of proprietors and drivers, are contained in ss. 48 to 64 of the Act.

Smoking prohibited.

2. A driver of an open hackney carriage shall not, at any time when driving for hire, smoke tobacco or any other like substance, without the permission of the person hiring and being conveyed in such carriage.

Prohibition of smoking.—The byelaw, as drawn, only applies to open carriages. There would seem to be no reason why it should not be made to apply to all hackney carriages, by the omission of the word "open."

Feeding of horses, etc., in streets.

3. A proprietor or driver of a hackney carriage shall not in any street feed or allow to be fed any horse or other animal harnessed or otherwise attached to such carriage except with food contained in a proper bag, or other receptacle suspended from the head of such horse or animal, or with hay held in and delivered with the hand of the person feeding such horse or other animal.

Feeding of horses, etc., in the streets.—The prohibition of feeding horses or other animals otherwise than as mentioned in the byelaw applies only to feeding in any "street," as defined by s. 3 of the Town Police Clauses Act, 1847. The object of the clause would seem to be to prevent the obstruction which results from food being given to the animals in boxes, baskets, etc., standing upon the ground. On a stand, for example, the use of such receptacles would prevent the carriages being drawn forward in succession, as required by the model clause 10. A similar provision is in force in the metropolis (1 & 2 Will. 4, c. 22, s. 51).

Loitering prohibited.

4. A driver of a hackney carriage drawn by a horse or horses, pony or ponies, mule or mules, ass or asses, when plying for hire and not actually hired, shall not cause such carriage to loiter in any public thoroughfare.

Loitering in and obstruction of public thoroughfares.—This clause, in conjunction with clause 10, is probably designed to prevent "crawling."

Section 28 of the Town Police Clauses Act, 1847, provides for obstructions occasioned by hackney carriages standing elsewhere than upon a stand for a longer time than is necessary for loading or unloading goods, or for taking up or setting down passengers, and for the wilful obstruction by a driver of any public thoroughfare. Section 64 of the Act also applies to a hackney carriage driver improperly standing with his carriage, or refusing to give way to, or obstructing any other driver, etc. The present clause does not apply to bath-chair men, or goat-chaise drivers.

Touting prohibited.

5. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such carriage to the annoyance of such person or of any other person.

Prohibition of touting.—Touting for fares is not treated by the byelaws as an offence, unless it be carried on to the annoyance of any person. Without some such qualification, the byelaw might be regarded as unreasonable, in view of the penalty which it carries.

Driver to obey constable directing traffic.

6. Every driver of a hackney carriage who shall convey any person to or from any place of public worship, amusement, or resort, or who shall for such purpose be in waiting with such carriage at or near to any such place, shall, as regards the manner of taking up or setting down any passenger, or of waiting for such purpose, comply with the directions of every constable authorised to keep order and prevent obstruction of the streets in the neighbourhood of such place.

Direction of traffic near theatres, etc.—Section 21 of the Town Police Clauses Act, 1847, enables the district council to give directions to constables for keeping order and preventing any obstruction of the streets in the neighbourhood of theatres and other places of public resort ; and s. 62 of the same Act imposes a penalty on a driver leaving a hackney carriage unattended at any place of public resort or entertainment, and enables a constable to drive the carriage away to a place of safe custody. Section 64 of the Act may also be referred to.

Conveyance of corpses.

7. Every proprietor or driver of a hackney carriage who shall knowingly convey in such carriage the dead body of any person shall, immediately thereafter, notify the fact to the inspector of nuisances.

Conveyance of corpses.—The conveyance of a dead body in a hackney carriage (even when the person has died of an infectious disorder) not being provided for by the Public Health Acts, the Local Government Board have framed this clause, as a byelaw "for regulating the conduct of proprietors and drivers of hackney carriages." The action which the inspector of nuisances will take on the notification to him of a hackney carriage having

been used for the conveyance of a dead body, should be determined, with reference to the circumstances of the case, by general directions given him by the district council. Where the body conveyed is that of a person known or suspected to have died of an infectious disease, they will, no doubt, instruct him to see that the carriage is properly disinfected. With regard to places where the Infectious Disease (Prevention) Act, 1890 (53 & 54 Vict. c. 34), is in force, the provisions of s. 11 of that Act will apply.

Conveyance of infected persons.—It might be well to consider whether this clause should not be made to apply to cases where the driver knowingly conveys persons suffering from any infectious disorder. There appears to be nothing to prevent such an extension of the clause.

8. Every driver of a hackney carriage of such a size and construction as to be adapted to the conveyance therein or thereon of a reasonable quantity of luggage shall, when requested by any person hiring or seeking to hire such carriage, convey therein or thereon such quantity of luggage and shall afford all reasonable assistance in loading and unloading any such luggage conveyed in or upon such carriage and belonging to or in the charge of any person hiring or being conveyed in such carriage. Every such driver shall also afford all reasonable assistance in removing such luggage to or from any door or entrance of any house, station, or place at which he may take up or set down any such person. Luggage.

Conveyance of luggage.—The quantity of luggage that a driver can properly be required to carry, must necessarily depend to a great extent upon the size and character of his vehicle, the condition of his horse, and the bulk and weight of the luggage. The provision that he shall carry "a reasonable quantity" is, therefore, more generally applicable than one specifying a maximum weight would be. Moreover, the form of the present clause is supported by ss. 10 and 17 (1) of the 16 & 17 Vict. c. 33, which is in force in the metropolis. The model byelaws do not contemplate a separate charge for luggage. See notes, "Extra Payments," "Luggage," on clause 26 of this series, pp. 287, 288.

A bicycle has been held not to be ordinary luggage which a railway company is bound to carry free of charge (*Britten* v. *Great Northern Rail. Co.* (1898), 15 T. L. R. 71); and a county court judge in the metropolis has held that a bicycle is not passenger luggage, so that in the absence of special contract, the owner of a bicycle is not entitled to recover in respect of damage done to it while being carried in a cab (*Jackson* v. *Jeffery* (1897), 61 J. P. 667).

9. Every driver of a hackney carriage who shall have been hired by time shall, except in any case where the nature or condition of the road or any other sufficient cause may render such speed impracticable, drive such carriage at such speed as may be required by the person hiring or being conveyed in Speed when hired by time.

such carriage, but not exceeding in any case the rate of *four miles* within one hour.

Rate of speed.—In the case of hiring by time, it is usually considered desirable to fix the maximum speed which the hirer is entitled to demand of the driver. "Four miles an hour" is not an excessive rate of speed, and if the fares for time and distance are properly proportioned, the rate might very well be increased to, say, six miles an hour (*cf.* ss. 7 and 17 (2) of 16 & 17 Vict. c. 33). The case of hilly, slippery, or other roads which are difficult for traffic, is met by the provision referring to the nature and condition of the road, etc. "Furious driving" can be dealt with under s. 28 of the Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89). For an "auto-cab" the maximum rate of speed allowed by the Locomotives on Highways Act, 1896 (59 & 60 Vict. c. 36), and the regulations made thereunder by the Local Government Board, is twelve miles an hour.

Regulations as to use of stands.

10. Every driver of a hackney carriage drawn by a horse or horses, pony or ponies, mule or mules, ass or asses, when plying for hire and not actually hired, shall station such carriage on some one of the stands appointed or hereafter to be appointed by the Council.

Such driver shall not station such carriage on any stand which, at the time of his arrival at such stand, may be occupied by the full number of carriages authorised to occupy such stand.

Such driver, on arriving at any such stand not already occupied by the full number of carriages authorised to occupy such stand, shall station such carriage immediately in the rear of the carriage or carriages already occupying such stand, and in such a position that the head or heads of the animal or animals harnessed to such carriage shall be turned in the same direction as the head or heads of the animal or animals harnessed to any carriage stationed on such stand immediately before such last-mentioned carriage.

When a hackney carriage shall be called or driven off any stand, the driver of any carriage stationed on such stand immediately in the rear of the carriage so called or driven off shall cause the carriage so stationed to be drawn forward, so as to fill the place previously occupied by the carriage called or driven off such stand.

The drivers of the several carriages stationed on such stand in the rear of the carriage so drawn forward shall, in succession, cause their carriages to be drawn forward, so that each carriage shall, in succession, fill the place which shall have been

previously occupied, immediately in advance of such carriage, by a carriage drawn forward in accordance with the requirements of this byelaw.

Regulations as to use of stands.—This clause has for its principal object the prevention of "crawling" in the streets, by requiring that carriages which are plying for hire and not actually hired shall be stationed on one of the appointed stands not already occupied by the full number of carriages authorised to occupy such stand. But the clause also regulates the conduct of the drivers while on the stand, in such a way as to obviate any cause of dispute with regard to the order or position of the several carriages stationed upon the stand at any one time. Section 64 of the Town Police Clauses Act, 1847, would apply if a hackney carriage were placed alongside of one stationed upon a stand, or if a driver of a carriage already upon the stand refused to give way (where he could conveniently do so, the stand not being full) to another hackney carriage, the driver of which desired to come upon the stand.

This byelaw applies to all streets, whether open to the public or not. Thus, in the city of Exeter, there was a square in front of a hotel, which was not enclosed, and where the public could pass freely, except when the hotel-keeper's carriages stood there and the hotel cabs when plying for hire. There was a byelaw similar to the above in force in the city. It was held that the driver when plying for hire in the square incurred the penalty imposed by the byelaw, as it was part of the street (*Marks* v. *Ford* (1881), 45 J. P. 157).

The notes on clause 24 may be referred to in connection with this clause.

Stands for bath chairs and goat-chaises. — Clause 24 of the model series (the byelaw fixing stands for hackney carriages) does not apply to bath chairs and goat-chaises, and therefore the present clause does not apply to such vehicles. It would be inconvenient, where they stand or ply for hire, to have them on the same stands with cabs, flys, and other like carriages, and the district council may be advised to appoint special stands for the purpose. Where this is done, regulations, such as those contained in clause 10, will scarcely be requisite as regards bath chairs, etc.

Appointments to be kept by driver, etc.

11. Every proprietor or driver of a hackney carriage who shall have agreed or shall have been hired to be in attendance with such carriage at an appointed time and place shall, in pursuance of such agreement or hiring, and unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.

Driver to keep his appointments, etc.—This clause is suggested as one for regulating the conduct of proprietors and drivers in a matter affecting the convenience of the public. Cognate provisions, which impose penalties on a driver refusing to drive, or to carry the full number of persons authorised to be conveyed in his carriage, will be found in ss. 52 and 53 of the Town Police Clauses Act, 1847. A refusal to carry persons suffering from infectious disease is taken out of the scope of these enactments by s. 127 of the Public Health Act, 1875, unless a sum sufficient to cover any loss or expense, incurred by the driver under that section, be tendered as therein mentioned.

Lighting of lamps.

12. Every driver of a hackney carriage, to which a lamp or lamps shall be affixed in accordance with the requirements of the byelaw in that behalf, shall, at all times while standing, plying, or driving for hire, cause such lamp or lamps to be kept properly trimmed and ready for lighting. Every such driver, while plying for hire between sunset and sunrise, when the public street lamps are required to be lighted, or at any time during the prevalence of such a fog as may render such light necessary for the safety of other vehicles or of foot passengers, shall cause such lamp or lamps to be properly lighted and to be kept lighted until such carriage shall cease to ply for hire or until the cessation of the cause which may have rendered such light necessary.

Provision and lighting of lamps.—A lamp or lamps for "signalling the approach or position" of the carriage in the dark must be provided for each hackney carriage under clause 23 of this series. The clause referred to is one "for regulating . . . . how such carriages are to be furnished or provided." Clause 12 deals with the lighting of the lamps, when necessary, as a matter affecting the conduct of the driver. The terms of the byelaw should be noticed. In many places it is not thought necessary to light the public street lamps during the short midsummer nights, or during a full moon, when the weather is clear; and it appears to be considered that, if under such circumstances artificial light is deemed unnecessary for the safety of the streets, the drivers of hackney carriages may fairly be exempted from the obligation to light their lamps.

Places where byelaws for the good rule, etc., of a borough or county are in force.—In any borough or district in which byelaws under s. 23 of the Municipal Corporations Act, 1882, or s. 16 of the Local Government Act, 1888, providing for the carrying of lights by all vehicles at night are in force, this byelaw, and that numbered 23, may require to be modified, or possibly omitted altogether. As to the validity of byelaws providing for lights on vehicles, see *Walker* v. *Stretton* (1896), 60 J. P. 313; 44 W. R. 525; 12 T. L. R. 363; *Williams* v. *Groves* (1896), 12 T. L. R. 450.

Carriage to be searched after hiring.

13. Every proprietor or driver of a hackney carriage shall, immediately after the termination of any hiring, carefully search such carriage with a view to the discovery of any property which may have been accidentally left therein by any person who may have hired or may have been conveyed in such carriage.

Property left in carriages.—Under the last paragraph of s. 68 of the Town Police Clauses Act, 1847, byelaws may be made for securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and these matters are dealt with by clause 28 of this series. The provisions of the present clause are similar to those contained in paragraph 29 of an order made by the Secretary of State under s. 9 of the Metropolitan Public Carriage Act, 1869 (32 & 33 Vict. c. 115), on August 5th, 1896.

14. A proprietor or driver of a hackney carriage drawn by a horse or horses, pony or ponies, mule or mules, ass or asses, goat or goats, shall not, at any time while standing, plying, or driving for hire, drive or allow to be driven, or harness or allow to be harnessed for the purpose of drawing such carriage, any such animal whilst in such a condition as to expose any person conveyed or being in such carriage, or any person traversing any street to risk of injury. Use of unfit animals.

Prohibition of use of unfit animals. The prevention of cruelty is not a matter as to which byelaws are authorised by s. 68 of the Town Police Clauses Act, 1847. But the power to make byelaws regulating the conduct of proprietors and drivers is probably sufficient to enable an urban district council to make a byelaw prohibiting the use for the purposes of a hackney carriage of an animal which is in such a condition of weakness or disease as to expose to risk of injury any person who may be conveyed in the carriage. The clause would also prevent the use of vicious animals, the employment of which might be attended with danger to the public.

15. Every driver of a hackney carriage drawn by a horse or horses, pony or ponies, mule or mules, ass or asses, goat or goats, shall, at all times while standing, plying, or driving for hire, cause every part of the harness of the animal or animals drawing such carriage to be kept in perfect order, and duly fastened and adjusted, so that such animal or animals shall be properly and securely attached to such carriage, and shall be under the due control of such driver. Harness to be in proper order.

Condition of harness.—This is a regulation which drivers may reasonably be required to comply with. Loose or rotten harness may involve danger to the public.

16. Every driver of a hackney carriage shall, at all times when standing, plying, or driving for hire, wear attached to his outer clothing in such position and manner as to be at all times plainly and distinctly visible, a badge consisting of a metal plate which shall be provided by the Council and shall be delivered to such driver either together with the licence granted to him by the Council or afterwards and on which shall be engraved, impressed, painted, or marked in legible figures a number corresponding with the number of the licence granted to such driver, and also the words, " ." Drivers badges.

Drivers' badges.—A hackney carriage driver in London is required at all times during his employment to wear a metal ticket or "badge," medal-wise, "conspicuously upon his breast." The ticket is to have marked or engraved

upon it "his office or employment, and a number corresponding with the number inserted in the licence" held by him (6 & 7 Vict. c. 86, ss. 8, 17). If the above clause is retained, the words which are to be borne on the badges should be inserted. It will be observed that the badges are to be provided by the district council.

Hours for standing or plying for hire.

17. A driver of a hackney carriage shall not stand or ply for hire before the hour of a.m. or after the hour of p.m.

Hours within which drivers may exercise their calling.—The hours will naturally be determined with reference to the requirements of the district. It is sometimes sought to prohibit altogether the plying of hackney carriages for hire on Sunday. A byelaw to this effect would seem, however, to go beyond what is authorised by s. 68 of the Town Police Clauses Act, 1847. Where a private Act enabled a canal company to make byelaws for the good government of the company, for the good and orderly using of the navigation, and for the well-governing of the bargemen, watermen, and boatmen who should carry goods on the navigation, it was held that a byelaw made by the company that the navigation should be closed on every Sunday throughout the year, and that no business should be carried on thereat, was not authorised by the private Act, and was therefore bad (*Calder and Heber Navigation Company* v. *Pilling* (1845), 14 M. & W. 76; 14 L. J. Ex. 223). As regards the metropolis, it is expressly enacted by 1 & 2 Will. 4, c. 22, s. 37, that a proprietor or driver may stand and ply for hire on Sunday, and if so standing or plying, may be compelled to drive on that day as on other days.

For regulating the manner in which the number of each carriage, corresponding with the number of its licence, shall be displayed.

Number-plates.

18. Every proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of such carriage to be painted or marked on each of two plates in figures of not less than two inches in height, of proportionate breadth, and of such a colour, or in such a manner, as to be clearly distinguishable from the colour or nature of the ground whereon such figures are painted or marked.

He shall cause such plates to be fixed on the outside and inside respectively of such carriage, in such a position and manner that the number thereon shall be at all times distinctly and plainly visible and legible. He shall not wilfully or negligently cause or suffer any such plate or the number on any such plate to be in any manner or by any means concealed from public view, or to be inverted at any time while such carriage may stand, ply, or be driven for hire.

Numbering of hackney carriages.—In connection with this clause, ss 41 and 45 of the Town Police Clauses Act, 1847, should be referred to.

The former section appears to contemplate the provision of more than one number-plate for each hackney carriage, and the present clause, accordingly, requires two such plates to be provided, one for the outside and one for the inside. Section 45 of the Act of 1847 imposes penalties on "any person . . . found driving, standing, or plying for hire" with a hackney carriage without having the number of the carriage openly displayed. The clause now under consideration applies to the proprietors. In London, a number-plate is to be fixed, in the case of a four-wheeled hackney carriage, on the back thereof, and in the case of a two-wheeled carriage, on the spring-block on the back, under the driver's seat, and another is to be fixed on the inside of the carriage. See order of Secretary of State, 5th August, 1896, paragraph 6.

For regulating the number of persons to be carried by such hackney carriages, and what number of horses or other animals is to draw the same, and the placing of check strings to the carriages, and the holding of the same by the driver, and how such hackney carriages are to be furnished or provided.

19. Every proprietor or driver of a hackney carriage shall comply with such of the following provisions for regulating the number of persons to be carried by hackney carriages as shall be applicable to such carriage: Number of persons to be carried.

No greater number of persons shall be conveyed in any carriage than will admit of the provision of adequate sitting accommodation to the extent at least of *sixteen inches* from side to side and *fifteen inches* from front to back of every seat in respect of each person conveyed in or upon such carriage, and also of adequate accommodation to enable every such person to sit with ease.

No greater number than *five* persons, exclusive of the driver, shall be conveyed in or upon any carriage drawn by one horse, or by two ponies or mules.

No greater number than *three* persons, exclusive of the driver, shall be conveyed in or upon any carriage drawn by one pony or mule or by two asses.

No greater number than *one* person, exclusive of the driver, shall be conveyed in or upon any carriage drawn by one ass.

For the purpose of the foregoing rules two children under the age of ten years may be regarded as one person.

No greater number than *two* children shall be conveyed in or upon any carriage drawn by a goat or goats.

Number of persons to be carried.—It would be obviously impossible in any code of byelaws to fix the number of persons to be carried by each of the

various kinds of vehicles which might be embraced by the definition of a "hackney carriage" in s. 38 of the Town Police Clauses Act, 1847. The model code, however, fixes the number with reference to two principles which are of general application. The first is that the number of persons should be limited by the extent of the sitting accommodation (including room for the legs), and the second that no greater number should be carried than is consistent with the probable strength of the animal or animals employed to draw the carriage. The number of persons to be carried having been fixed by the byelaws, s. 51 of the Town Police Clauses Act, 1847, requires that the number shall be painted on a plate placed in some conspicuous position on the outside of the carriage. The word "rules" should perhaps be substituted for "provisions" in paragraph 1 of the byelaw (see paragraph 6).

Check strings.

20. Every proprietor of a closed hackney carriage or of a hackney carriage so constructed as to be capable at any time of being closed shall, in order to enable any person in such carriage to communicate with the driver, provide and place a proper check string in such a position as to pass through the front of such carriage into the interior, and so as to be readily accessible to any person in such carriage.

Such proprietor shall cause such check string to be kept at all times ready and fit for use, and shall renew the same from time to time as often as occasion shall require.

Every driver of a closed hackney carriage, while conveying any person in such carriage, and every driver of a hackney carriage so constructed as to be capable of being closed, while conveying any person in such carriage at any time when the same shall be closed, shall hold such check string in his hand, or shall attach the same to his arm, or to some part of his outer clothing, in such a manner as to secure to every person in such carriage adequate means of prompt communication with such driver.

Check strings.—The duty of providing check strings is, by this byelaw, properly imposed upon the proprietor. The clause applies only to closed carriages and carriages capable of being closed.

How carriages are to be furnished.

21. Every proprietor of a hackney carriage shall cause the seats of such carriage to be properly cushioned or covered, and the floor of such carriage to be provided with a proper carpet, mat, or other suitable covering, or during wet weather with clean straw. He shall cause such carriage to be so furnished and fitted in all other respects as to secure cleanliness, and due provision for the safety and convenience of every person conveyed in such carriage. If such carriage be of such a size and construction as to be adapted to the conveyance therein or

thereon of a reasonable quantity of luggage, he shall provide adequate means of securing such luggage while conveyed in or upon such carriage. If such carriage be a closed carriage, or be so constructed as to be capable at any time of being closed, he shall cause the roof or covering of such carriage to be made and kept water-tight. He shall provide such carriage with proper window glasses set in suitable frames, and shall renew such glasses and frames from time to time as often as occasion may require; and he shall furnish each window with a leathern strap or other suitable means of wholly or partially raising or lowering such window.

Furnishing of hackney carriages.—The requirements of this byelaw, as to the manner in which hackney carriages are to be "furnished or provided," appear to be sufficiently comprehensive to secure the turn-out of clean, well-found carriages. Sound shafts, springs, wheels, axles, and the like, appear to be covered by the expression "due provision for the safety and convenience" of fares. Broken window glasses and rattling window frames—a source of great annoyance to persons using closed carriages—can be dealt with under this byelaw; and where the windows are raised and lowered by means of straps, "due provision for the . . . convenience" of hirers will require that the straps shall be properly pierced with holes, and that proper buttons shall be so placed on the window frames as to enable the windows to be partially closed if desired.

Rubber-tyred carriages.—The increasing use of pneumatic and other "silent" tyres for hackney carriages suggests that in places where these are in vogue a clause might be added to this series, requiring the carriages to be "furnished or provided" with bells on the harness which will ring whenever the carriages are in motion. In the case of "auto-cabs," "a bell or other instrument capable of giving audible and sufficient warning of the approach or position of the carriage" must be carried under s. 3 of the Locomotives on Highways Act, 1896 (59 & 60 Vict. c. 36). The bell must be used in accordance with the regulations of the Local Government Board under the Act.

Brakes or drag-chains to be provided.

22. Every proprietor of a four-wheeled hackney carriage drawn by a horse or horses, pony or ponies, shall provide such carriage with a sufficient drag-chain and slipper or other sufficient brake.

Lamps to be provided.

23. Every proprietor of a hackney carriage drawn by a horse or horses, pony or ponies, mule or mules, ass or asses, shall furnish such carriage with such number of sufficient lamps, not being more than two, and so constructed and so affixed on the outside of such carriage as to afford when lighted adequate means of signalling the approach or position of such carriage.

Lamps.—In connection with this clause, the note on clause 12 should be referred to. In certain places where hansom cabs are in use, it is the practice

to place a lamp over the centre of the vehicle in front, and to dispense with side-lamps. The present clause admits of the continuance of this arrangement, as it provides for "not . . . more than two" sufficient lamps being supplied to each carriage.

Places where byelaws as to lights on vehicles are in force.—See note on clause 12.

Lights on "auto-cabs."—Under s. 2 of the Locomotives on Highways Act, 1896 (59 & 60 Vict. c. 36), and the regulations made by the Local Government Board thereunder, every "light locomotive" within the meaning of that Act is "from one hour after sunset to one hour before sunrise" to carry a lamp so constructed and placed as to exhibit a white light visible within a reasonable distance in the direction towards which the vehicle is proceeding or is intended to proceed, and to exhibit a red light so visible in the reverse direction. The lamp is to be placed on the off side of the vehicle in such a position as to be free from all obstruction to the light.

For fixing the stands of such hackney carriages, and the distance to which they may be compelled to take passengers.

Fixing stands.

24. The several places specified in the following list shall be the authorised stands for such number of hackney carriages, drawn by horses, ponies, mules, or asses, as shall in each case be specified in such list :—

[*Here insert the list of stands.*]

Altering stands.

In addition to or in substitution for the places specified in the foregoing list, such places, as may from time to time be appointed by the Council, and may be indicated in each case by a notice board affixed in some conspicuous position at or near to such place and marked with the words "Stand for hackney carriages," shall be the stands authorised for such number of hackney carriages as shall in each case be specified in such notice board.

Stands for hackney carriages.—The list of stands, and a statement of the number of hackney carriages authorised to occupy each stand, should be inserted in the clause before the byelaws are submitted to the Local Government Board for their preliminary approval. The last paragraph of the clause provides for the alteration of the list of stands, if occasion requires, without it being necessary to make a fresh byelaw for the purpose. If the district council prefer to fix the stands *ab initio* in manner provided in the second paragraph, omit all the words of the clause before "such places" in the second line of that paragraph. A byelaw provided—"That the several places in the district where painted boards shall from time to time be placed by the local board to distinguish them as stands, shall be stands for such number of carriages, horses, asses and mules, etc., as shall be mentioned on

such boards; and no driver of any such carriage, etc., shall place the same on any other than some one of such stands, or shall ply for hire in any of the streets or places within the district (except on one of such stands) under a penalty not exceeding 40s." A licensed driver was convicted of plying for hire off a stand. On appeal, the justices stated that it was proved to their satisfaction that he was driving a licensed carriage on the beach, within the district; that he got off and spoke to some people, and took them up, having then passed a stand. The court held that the byelaw was valid, although it did not on the face of it, specify the exact localities where the stands were to be; that the seashore between high and low water mark was within the district, and that the driver was properly convicted of plying for hire (*Blackpool Local Board* v. *Bennett* (1859), 28 L. J. M. C. 203; 4 H. & N. 127; 7 W. R. 382). By 6 & 7 Vict. c. 86, s. 33, a penalty is imposed on the driver of a hackney carriage who shall ply for hire elsewhere than at some standing appointed for the purpose, and by 1 & 2 Will. 4, c. 22, the plying for hire must be in a public street or place. It was held that to ply for hire within s. 33 must be in some public street or place, and that the driver of a hackney carriage who plied for hire on an open unenclosed piece of private ground, to which the public had access, but over which there was no public right of way, was not within the section (*Skinner* v. *Usher* (1872), L. R. 7 Q. B. 423; 41 L. J. M. C. 158; 26 L. T. 430; 20 W. R. 659. See also *Curtis* v. *Embery*, *ante*, p. 270).

The byelaw (No. 24) gives ample power to remove stands. This power would have been exercisable without express mention. Thus in *Rex* v. *Rawlinson* (1826), 6 B. & C. 23; 9 D. & R. 7; 5 L. J. (o.s.) M. C. 16, where certain commissioners of pavement were authorised by statute to direct and regulate the stands of hackney carriages within their district, it was held that this gave them power to remove a stand from a street where it occasioned obstructions in the carriage way.

Distance to which carriages may be compelled to take passengers.

25. For the purposes of the byelaws relating to hackney carriages, the distance to which a hackney carriage drawn by a horse or horses, pony or ponies, mule or mules, may be compelled to take passengers shall be miles within the boundary of the district:

The distance to which a hackney carriage drawn by an ass or asses may be compelled to take passengers shall be miles within the boundary of the district:

The distance to which a hackney carriage drawn by a goat or goats may be compelled to take passengers shall be miles within the boundary of the district:

And the distance to which a hackney carriage drawn or propelled by hand may be compelled to take passengers shall be miles within the boundary of the district.

Distance to which carriages can be compelled to take passengers.—Section 68 of the Town Police Clauses Act, 1847, only enables the district

council to make byelaws fixing the distance within which hackney carriages "may be compelled to take passengers, not exceeding the prescribed distance." The prescribed distance is defined by s. 171 of the Public Health Act, 1875, as meaning the urban district. Hackney carriages, therefore cannot be compelled to go outside the district. The present clause prevents their being compelled to go more than a certain distance within the district, when their horses are tired, or there is other sufficient cause for refusal. Section 53 of the Act of 1847 imposes a penalty on a driver refusing or neglecting, without reasonable cause to drive the distance prescribed ; and the clause regulates the distances with reference to the class of carriage, and the nature of the motive power.

For fixing the rates or fares, as well for time as distance, to be paid for such hackney carriages within the district, and for securing the due publication of such fares.

Fixing rates or fares.

26. Every proprietor or driver of a hackney carriage plying for hire shall be entltled to demand and take for the hire of such carriage the rate or fare prescribed by the following table, and in every case, except where the carriage is drawn or propelled by hand, the hiring shall be by distance unless the hirer express at the commencement of the hiring his desire to engage by time in which case the same shall be determined by time.

In the case of a carriage drawn or propelled by hand the hiring shall be taken to be by time only.

FARES FOR TIME.

Periods of Time.	Description of Carriage.											
	Carriage drawn by two Horses.		Carriage drawn by one Horse, or by two Ponies or Mules.		Carriage drawn by one Pony or Mule, or by two Asses		Carriage drawn by one Ass.		Carriage drawn by two Goats, or one Goat.		Carriage drawn or propelled by Hand.	
	s.	*d.*	*s.*	*d.*	*s.*	*d.*	*s.*	*d.*	*s.*	*d.*	*s.*	*d.*
If the time does not exceed one hour : For the whole time -												
If the time exceeds one hour :												
For each quarter of an hour of the whole time												
For any period of less than 15 minutes which is over and above any number of periods of 15 minutes completed-												

FARES FOR DISTANCE.

Distance.	Description of Carriage.				
	Carriage drawn by two Horses.	Carriage drawn by one Horse, or by two Ponies or Mules.	Carriage drawn by one Pony or Mule, or by two Asses.	Carriage drawn by one Ass.	Carriage drawn by two Goats or one Goat.
	s. d.	*s. d.*	*s. d.*	*s. d.*	*s. d.*
If the distance does not exceed one mile : For the whole distance -					
If the distance exceeds one mile : For each mile of the whole distance - - -					
For any part of a mile over and above any number of miles completed - - - -					

Rates or fares for hackney carriages.—Section 68 of the Town Police Clauses Act, 1847, only authorises the fixing by byelaws of "rates or fares . . . to be paid for hackney carriages within the prescribed distance," *i.e.*, within the district. If, therefore, instead of tables of fares such as are embodied in the model clause, a table referring to journeys from and to specified places is adopted, care must be taken that no place is mentioned which is not within the district. The fares prescribed by the clause, whether for time or distance, will be the charge for conveying any number of persons up to the maximum fixed by clause 19.

Driver refusing to drive.—A penalty is inflicted on a driver refusing to drive to any place within the prescribed distance or the distance appointed by any byelaw, not exceeding the prescribed distance, to which he is directed to drive by the person hiring or wishing to hire the carriage (Town Police Clauses Act, 1847, s. 53). A driver is thus bound to drive to a private place within the prescribed distance, even although it is private property, provided he can lawfully obtain access (*Ex parte Kippins*, [1897] 1 Q. B. 1 ; 66 L. J. Q. B. 95 ; 75 L. T. 421 ; 45 W. R. 188 ; 60 J. P. 791 ; 18 Cox. C. C. 459).

In *R.* v. *Nathan* (1895), 59 J. P. 420, a cabdriver was convicted in the metropolis for illegally refusing to carry a fare.

The second paragraph of the present clause makes the "fares for distance" inapplicable to bath chairs.

Extra payments.—In London, "extra payments" can be demanded for each person beyond two, for each package carried outside, (as to a bicycle, see *ante*, p. 275,) and for waiting. By the present clause, all such charges are dispensed with. It is, however, occasionally considered desirable to modify the clause so as to provide for certain extra payments. These may be dealt with in separate notes.

'Back fares."—In some places it is the custom for the proprietors and drivers of hackney carriages to charge only half fares for return journeys. If

no such arrangement is provided for in the byelaws, the amount of any reduced fare for a return journey must be the subject of an agreement between the hirer and the driver, under s. 54 of the Town Police Clauses Act, 1847. If, however, it is desired to fix the amount of such fares by means of a byelaw, the following addition to clause 26 may be suggested :

Back fares.

Provided that where any hackney carriage may have been hired whether by time or by distance, to convey any person to any place within the district, and, without any interruption of the hiring, may be used to convey such person from such place to the place at which such carriage was originally hired, the rate or fare chargeable in respect of the return journey shall be equal only to one-half the rate or fare fixed by this byelaw.

Fares after midnight, etc.—Where it is thought desirable to provide for extra fares being charged after midnight or other specified hour, the following proviso would seem to meet the case :

Fares after midnight, etc.

Provided that in every case where a hackney carriage is hired or driven for hire at any time after the hour of in the afternoon, and before the hour of in the forenoon, the proprietor or driver shall be entitled to demand and take for the hire of such carriage, in respect of the time or distance over which the hiring thereof has extended between the hours above specified, a rate or fare which shall amount to *one and a half times* the rate or fare fixed by this byelaw.

Luggage.—"A reasonable quantity of luggage" must be taken by the driver, at the request of the hirer or intending hirer, under clause 8. For this no extra charge can be made under clause 26 as framed. If, however, any separate charge for luggage is to be permitted, some such addition as the following may be made :

Luggage.

A proprietor or driver of a hackney carriage shall not be entitled to demand and take any rate or fare in excess of the rate or fare hereinbefore prescribed, in respect of any luggage carried in or upon such hackney carriage, if the weight of such luggage shall not exceed *fifty-six pounds* for each person carried in or upon such carriage.

For the purposes of this byelaw two children under ten years of age shall be regarded as one person.

The amount to be charged for any excess of luggage over the prescribed weight will be subject to agreement between the hirer and driver.

Charge for waiting.—Waiting is provided for by s. 57 of the Town Police Clauses Act, 1847, which enacts that "when any hackney carriage is hired

and taken to any place, and the driver thereof is required by the hirer there to wait with such hackney carriage, such driver may demand and receive from such hirer, his fare for driving to such place, and also a sum equal to the fare of such carriage for the period, as a deposit over and above such fare, during which he is required to wait as aforesaid, or if no fare for time be fixed by the byelaws, then the sum of one shilling and sixpence for every half-hour during which he is so required to wait, which deposit shall be accounted for by such driver when such hackney carriage is finally discharged by such hirer." The wording here is somewhat obscure ; but it is suggested that the section should be construed as though the words "as a deposit over and above such fare" were transposed, thus, ". . . and also, *as a deposit over and above such fare*, a sum equal to the fare of such carriage for the period during which he is required to wait as aforesaid." That is, when the hirer gives the order to wait, he is to pay his fare to the point where he gives the order, and the fare by time—if any be prescribed—for the period for which he requires the carriage to wait. At the end of the period mentioned by the hirer, the driver may drive away (see latter part of the section) ; but if the hirer resumes his journey before that period expires, the driver is to account for the sum for waiting which will have been paid him in excess. There seems to be nothing in this provision to prevent a special "fare by time" for waiting being prescribed by the byelaws. The charge might be the same as in London, and the following addition might be made to the table of "Fares for Time" :—

For waiting: Waiting.

	s.	*d.*
For each full period of fifteen minutes during which such proprietor or driver is required to wait - -	0	6

If the driver refuses to wait, or goes away before the expiration of the time for which the deposit was paid, or if he refuses to account for the deposit, he renders himself liable to a penalty.

Extra persons.—No provision is made in the byelaws for an extra charge in respect of more than a certain number of persons being carried. The Hackney Carriages (London) Acts make such a provision. The 16 & 17 Vict. c. 127, s. 14 provides that where more than two persons shall be carried inside any hackney carriage or cab drawn by one horse only, a sum of sixpence for each person shall be paid for the whole hiring, in addition to the fare directed to be paid for two persons under 16 & 17 Vict. c. 33, and that two children under ten years of age shall be considered as one adult person. This has been held to mean that if two children under ten years of age are carried in excess of two persons they shall be counted and paid for as one adult ; but that if one child only be so conveyed in excess, he shall still be considered as an extra person, and paid for accordingly (*Norton* v. *Jones* (1863), 8 L. T. 241 ; 11 W. R. 573).

Recovery of fare.—If any person refuse to pay on demand to any proprietor or driver the fare allowed by the statute or byelaw, such fare may together with the costs, be recovered before one justice as a penalty (10 & 11 Vict. c. 89, s. 66). The amount is recoverable as a civil debt under ss. 6 and 38 of the Summary Jurisdiction Act, 1879 (*R.* v. *Kerswill* or *Torquay JJ.*, [1895] 1 Q. B. 1 ; 64 L. J. M. C. 70 ; 71 L. T. 574 ; 43 W. R. 59 ; 59 J. P. 342 ; 10 R. 476 ; 11 T. L. R. 8).

Fare plates.

27. Every proprietor of a hackney carriage plying for hire and drawn by a horse or horses, pony or ponies, mule or mules, ass or asses, shall cause a statement of the fares authorised by any byelaw in that behalf to be demanded and received in respect of the hiring of such carriage to be printed or painted on a suitable plate in legible letters and figures of such a colour as to be clearly distinguishable from the colour of the ground whereon such letters and figures are printed or painted.

He shall cause such plate to be fixed, in the case of a four-wheeled carriage, on the inside, and, in the case of a two-wheeled carriage, on the inside of the splash board of such carriage or otherwise in such a position and manner that the letters and figures on such plate shall be at all times distinctly and plainly visible and legible to any person being conveyed in such carriage.

Such proprietor shall, from time to time, as often as occasion may require, renew such plate or the letters and figures on such plate, and he shall not nor shall any driver of such carriage wilfully or negligently cause or suffer such plate to be inverted or detached or the letters or figures on such plate to be in any manner or by any means concealed from the view of any person being conveyed in such carriage at any time while such carriage may ply or be used for hire.

Publication of fares.—Clause 27 provides "for securing the due publication" of the fares prescribed by the preceding or any similar clause. A similar arrangement to that which is required by the byelaw is in force in the metropolis (32 & 33 Vict. c. 115 ; *Bocking* v. *Jones* (1870), L. R. 6 C. P. 29 ; 40 L. J. M. C. 19 ; 23 L. T. 739 ; 19 W. R. 227), and the same system has been very generally adopted elsewhere. In London the driver may be required to give the hirer a ticket showing the number of the carriage and the number of persons it is licensed to carry, a list of fares and extra payments, and the name and address of the proprietor of the carriage. But it would seem that a byelaw embodying any similar requirement would be in excess of the powers conferred by s. 68 of the Town Police Clauses Act, 1847.

For securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof.

Left property.

28. Every proprietor or driver of a hackney carriage wherein any property shall be accidentally left by any person who may have hired or may have been conveyed in such carriage shall, if

such property be found by such proprietor or driver, within twenty-four hours after such finding, carry the same, if not sooner claimed by or on behalf of the owner thereof, in the state in which the same shall have been found, to the office of the [Council], and shall there deposit and leave such property in the custody of the officer in charge of such office.

In the event of the re-delivery of such property to any person who shall satisfactorily prove that the same belongs to him, the proprietor or driver, by whom such property may have been found and carried to the office of the Council and there deposited, shall be entitled to demand and receive from the person to whom such property shall have been re-delivered an amount to be determined in accordance with the following regulations:

If the estimated value of the property be less [*qu.* not more] than *five pounds*, or if the property be of such a character that the value thereof cannot readily be estimated, such proprietor or driver shall be entitled to demand and receive from such person an amount equal to the amount payable to such proprietor or driver as a fare for the hiring of his carriage for such time as may have been occupied by him in carrying the property from the place at which the same may have been found in his carriage to the office of the Council:

If the estimated value of the property be more than *five pounds*, such proprietor or driver shall be entitled to demand and receive from such person an amount equal to *a shilling* in the pound on the estimated value of the property: Provided that in no case shall such proprietor or driver be entitled to demand or receive a greater amount than *pounds*.

Safe custody and re-delivery of property accidentally left in hackney carriages.—Clause 13 of the model series requires every proprietor or driver of a hackney carriage to search his carriage after each hiring with a view to the discovery of "left property." Clause 28 provides for the safe custody and re-delivery to the owner of any such property which may be found on such search. The provisions of the clause appear to be founded upon those in force in the metropolis, where, however, as the drivers are under police control, left property has to be deposited at the nearest police station. A slight alteration (indicated in the text) is suggested in the third paragraph of the clause. "*Two pounds*" is the amount usually inserted in the last line.

Penalties.

Penalties.

29. Every proprietor or driver of a hackney carriage who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of , and in the case of a continuing offence to a further penalty of for each day after written notice of the offence from the Council.

Provided nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalties.—Any sums not exceeding "*five pounds*" and "*forty shillings*," respectively may be inserted. The second paragraph of the clause is necessary in order to satisfy the requirements of s. 183 of the Public Health Act, 1875.

Recovery of penalties.—As to the recovery of penalties see s. 251 of the Public Health Act, 1875, and notes thereon in Lumley's Public Health, 5th ed., p. 333.

Repeal of Byelaws.

Repeal.

30. From and after the date of the confirmation of these byelaws, the byelaws relating to hackney carriages, which were made on the day of in the year one thousand eight hundred and by the , and were confirmed on the day of in the year one thousand eight hundred and by [one of Her Majesty's Principal Secretaries of State,] [the Local Government Board] shall be repealed.

Repeal of byelaws.—The above clause should be completed and added to the series, if there are in force in the district any byelaws with respect to hackney carriages which the district council are desirous of repealing.

SERIES VIII.

PUBLIC BATHING.

PUBLIC BATHING.

MEMORANDUM.

For the purpose of regulating public bathing in urban districts, section 69 of the Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89), is incorporated with the Public Health Act, 1875 (38 & 39 Vict. c. 55), by section 171 of that Act. 10 & 11 Vict. c. 89, s. 69; 38 & 39 Vict c. 55, s. 171.

Section 69 of the Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89), is in the following terms:—

> "Where any part of the sea-shore or strand of any river used as a public bathing place is within the limits of the special Act,* the Commissioners [Council] may make byelaws for the following purposes; (that is to say,)
>
> > "For fixing the stands of bathing machines on the sea-shore or strand, and the limits within which persons of each sex shall be set down for bathing, and within which persons shall bathe;
> >
> > "For preventing any indecent exposure of the persons of the bathers;
> >
> > "For regulating the manner in which the bathing machines shall be used, and the charges to be made for the same;
> >
> > "For regulating the distance at which boats and vessels let to hire for the purpose of sailing or rowing for pleasure shall be kept from persons bathing within the prescribed limits."

It will be seen that the marginal note to section 69 of the 10 & 11 Vict. c. 89 summarizes the provisions of that section Scope of 10 & 11 Vict. c. 89, s. 69.

* That is, the Public Health Act, 1875. See s. 316 of that Act.

as relating to bathing machines; and, after careful consideration of those provisions, the Board think that their intended scope is correctly defined in the marginal note. The Board are of opinion that the statute requires that the byelaws should be confined to the regulation of public bathing in connection with the use of bathing machines. As to the conditions under which bathing from the shore or strand without the use of a machine may become an indictable offence, the Board refer to the decisions in the cases of Reg. *v.* Reed and Others (12 Cox, C. C. 1), and Rex *v.* Crunden (2 Camp. 89).

JOHN LAMBERT,
Secretary.

Local Government Board,
25th July, 1877.

Local authorities competent to adopt the model byelaws.—Section 69 of the Town Police Clauses Act, 1847, is, by s. 171 (5) of the Public Health Act, 1875, incorporated for the regulation of public bathing in urban districts only. If, therefore, a rural district council desire to make byelaws on the subject, they should apply to the Local Government Board to invest them with the necessary powers, by means of an order under s. 276 of the Public Health Act, 1875. In making any such application the instructions given in the Introduction should be observed by the rural district council.

Scope of the model byelaws.—There is nothing in the provisions of the model series, to which the above memorandum relates, involving difficulties of a technical character. But, as affecting the scope of the byelaws which may be made by a district council under s. 171 (5), the observations of the Local Government Board with regard to the incorporated provisions of s. 69 of the Town Police Clauses Act, 1847, require consideration. It may be argued that the marginal note to that section would not, of itself, be sufficient to determine the intended scope of the enactment, more especially as in the Revised Edition of the Statutes it has been altered into "byelaws for regulating public bathing places"; and see, generally, as to marginal notes, *Sutton* v. *Sutton* (1882), 22 Ch. D. 511; *Att.-Gen.* v. *Great Eastern Rail. Co.* (1879), 11 Ch. D., at pp. 460, 461. But it should be borne in mind that the origin of the enactment is referable to the remarks of BAYLEY, J., in *Blundell* v. *Catterall* (1821), 24 Rev. Rep. 353; 5 B. & Ald. 268, at p. 306, that "In sea bathing as it now prevails (1821) particular regulations are desirable; the restriction of particular machines to particular spots; a separation of those which are for men from those which are for females; and the prevention of contests as to particular situations." Moreover, two of the four paragraphs, prescribing the matters that may be dealt with by the byelaws, distinctly refer to "bathing machines." The provision in the latter part of the first paragraph, as to "the limits within which persons of each sex shall be set down for bathing," scarcely appears applicable to bathing without a bathing machine, but is clearly applicable where bathing machines are used. There may be more doubt whether the last clause of this paragraph applies only to bathing in connection with machines; but, taken in connection with

the preceding words, it appears to be designed to prevent persons who may have been "set down for bathing" (from machines) within the limits allotted to their sex, from overstepping those limits when in the water. With regard to indecent exposure of the person, the provision authorising the making of byelaws appears unnecessary, if it is to be read as applying to bathing without the use of machines. In support of this view, reference may be made to the cases of *Rex* v. *Crunden* and *R.* v. *Reed* (mentioned in the memorandum of the Local Government Board). In *Rex* v. *Crunden* (1809), 2 Camp. 89; 11 Rev. Rep. 671, it was held an indictable offence for a man to undress himself on the beach, and to bathe in the sea near inhabited houses from which he might be distinctly seen; although these houses might have been recently erected, and till then it might have been usual for men to bathe in great numbers at the place in question. That decision was given in 1809, and the *locus in quo* was the shore opposite the East Cliff at Brighton. And in *R.* v. *Reed* (1871), 12 Cox C. C. 1, it was held unlawful for men to bathe, without any screen or covering, so near a public footway that exposure of their persons must necessarily occur, and that persons who so bathe are liable to an indictment for indecency.

It may also be pointed out that s. 28 of the Town Police Clauses Act, 1847, renders liable to a penalty or imprisonment "every person who in a street, to the . . . annoyance . . . of the residents or passengers . . . wilfully and indecently exposes his person." The word "street," as used in the Act of 1847, extends to any "thoroughfare or public passage"; and hence it would appear that s. 28 provides additional security against indecent bathing on the shore, so far as a public right of way exists over it.

What is a bathing machine.—In the absence of any statutory definition of the term "bathing machine," local usage with regard to the character of the shelters used by persons bathing on the seashore, or on the strand of a river, may in certain cases make it open to question whether the local authority have power to regulate the bathing by means of byelaws. It would seem that the term must be regarded as applying mainly to bathing machines of the ordinary type, which consists of a sort of hut or box on wheels, and moved by a horse or windlass. The reference to "stands" in the first paragraph of s. 69 of the Town Police Clauses Act, 1847, and the general tenour of the paragraph, would appear to indicate that huts resting on or built upon the shore, and used by bathers as dressing boxes, framework tents, and other similar structures, such as are sometimes used for the purposes of bathing, would not be within the scope of the section. The model clauses, however, contain provisions relating to bathing in connection with machines so constructed as to be capable of being drawn or moved "by hand" to or from the stations occupied by them.

Licence to use bathing machines.—A condition attached to a licence to let bathing machines for one year on the beach, providing that the licensing authority may revoke it at any time, is unreasonable. GRANTHAM, J., granted an injunction restraining an urban district council (the licensing authority) from revoking such a licence where the ground for such revocation was an infringement on the part of the licensee of the provisions of a regulation made subsequently to the granting of his licence (*Pelham* v. *Littlehampton Urban District Council* (1898), 63 J. P. 88).

Mixed bathing.—The model byelaws, if adopted without modification would prohibit the bathing together of persons of different sexes, as is

common at continental, and some English, watering-places. It is understood, however, that the Local Government Board have recently sanctioned, under s. 69 of the Town Police Clauses Act, 1847, and similar provisions, series applicable respectively to the urban districts of Cromer and Bognor, and the boroughs of Eastbourne and Hastings, which are framed in such a way as to permit and properly regulate "mixed bathing."

Confirmation of the byelaws.—Byelaws made under s. 69 of the Town Police Clauses Act, 1847, by virtue of the incorporation of that enactment with the Public Health Act, 1875, require the confirmation of the Local Government Board, and do not require any other confirmation, allowance, or approval (47 & 48 Vict. c. 12).

SERIES VIII.—PUBLIC BATHING.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for draft forms on which to submit the byelaws for the Board's preliminary approval before they are adopted by the local authority.*]

BYELAWS

MADE BY THE* WITH RESPECT TO PUBLIC BATHING ON THE† WITHIN THE‡ .

Interpretation of Terms.

1. Throughout these byelaws, the expression "the Council" means the* . Interpretation.

For fixing the stands of bathing machines on the seashore [or *strand*],§ *and the limits within which persons of each sex shall be set down for bathing; and within which persons shall bathe.*

2. The several places described or defined in the list hereunto appended shall be the stands appointed for such number of bathing machines of such class, description, or construction, and appropriated for the use of persons of such sex as shall in respect of each of such stands be specified in such list. Stands.

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* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or* "Urban [*or* Rural] District Council of "; *as the case may be.*

† "Seashore," *or*, "strand"; *as the case may be.*

‡ *Insert name of borough or urban or rural district, or* "that portion of the Rural District of which comprises the contributory place of "; *as the case may be.*

§ Omit the reference to the seashore or the strand, as the case may require.

LIST OF STANDS FOR BATHING MACHINES.

Description or limits of stand.	Bathing machines to be placed on stand.		
	1. Number.	2. Class, description, or construction.	3. Sex to which appropriated.
(*a*)	(*a*)	(*a*)	(*a*)

(*a*) Here insert the necessary particulars as to each stand.

In addition to or in substitution for any of the places so appointed as stands for bathing machines, such place or places as may, from time to time hereafter, be appointed by the Council, and may be described or defined in a notice or notices painted, printed, or marked in legible letters and figures of such a colour or in such a manner as to be clearly distinguishable from the colour of the ground whereon such letters and figures are painted, printed, or marked, and affixed or set up and continued in some convenient and conspicuous position in or near to the place or places so appointed, shall be the stand or stands for such number of bathing machines of such class, description, or construction, and appropriated for the use of persons of such sex as shall be specified in such notice or notices.

Stands for bathing machines.—The list of stands should be completed before the byelaws are submitted to the Local Government Board for their preliminary approval. The stands cannot be fixed on private property without the consent of the owner. See note to clause 16, *post*. The latter part of the clause provides for the alteration of the list of stands, if occasion requires, without it being necessary to make a fresh byelaw for the purpose. If the district council prefer to fix the stands *ab initio* in manner provided in the second paragraph, omit all the words of the clause before "such place" in the second line of that paragraph.

Setting down of persons for bathing. (Females.)

3. A proprietor or attendant of a bathing machine, stationed on any stand or part of a stand appointed for machines for the use of persons of the female sex, shall not cause or allow any such person, who may have hired, or may use such machine for the purpose of bathing to be set down for such purpose at any place less distant than *yards* from any place at which any person of the male sex above the age of *years* may be set down for such purpose.

Setting down of persons for

4. A proprietor or attendant of a bathing machine stationed on any stand or part of a stand appointed for machines for the

use of persons of the male sex, shall not cause or allow any such person above the age of *years*, who may have hired, or may use such machine for the purpose of bathing, to be set down for such purpose at any place less distant than *yards* from any place at which any person of the female sex may be set down for such purpose. bathing. (Males.)

Setting down of persons for bathing.—These two clauses forbid the setting down of persons for bathing from machines within a specified distance of persons of the opposite sex. The distance should not be less, in any case, than *ten yards*, and *seven years* is a convenient age to prescribe. Such clauses may scarcely seem to be required in a case where a point of land or rocks, or other material obstacle intervenes between the places appropriated for bathing respectively by males and by females, so that the machines on the several stands are necessarily kept at a sufficient distance from the next stand. But it will usually be well to retain the clauses; for although clause 2 fixes the stands with reference to sex, the penalty clause would not apply to the setting down of males on a stand, or part of a stand intended for females, and *vice versâ*, if these two clauses were omitted.

5. A person of the female sex shall not, while bathing, approach within *yards* of any place at which any person of the male sex, above the age of *years*, may be set down for the purpose of bathing, or at which any such person may bathe. Limits for bathing. (Females.)

6. A person of the male sex above the age of *years* shall not, while bathing, approach within *yards* of any place at which any person of the female sex may be set down for the purpose of bathing or at which any such person may bathe. Limits for bathing. (Males.)

Limits within which persons shall bathe.—As to the application of byelaws on this subject, *see* note, p. 296 ("Scope of the model byelaws"). *Seven years* and *ten yards* may be inserted in these clauses. If the configuration of the coast, or the distance intervening between the stands, renders these clauses unnecessary, the words "*and within which persons shall bathe*," should be omitted from the heading. It is understood that a byelaw has been allowed under s. 69 of the Town Police Clauses Act, 1847, requiring persons while bathing to keep on the seaward side of the machines. If not a byelaw as to the limits within which persons shall bathe, such a clause may apparently be regarded as one for preventing indecent exposure of the persons of the bathers; and in either case it would seem to be authorised by the terms of the section. Requiring bathers to keep to seaward of machines.

For preventing any indecent exposure of the persons of the bathers.

7. Every proprietor or attendant of a bathing machine so constructed as to be capable of being drawn or moved to or from the station occupied by such machine on any stand, by Machines to be in sufficient depth of water, etc.

means of a horse or windlass, or other animal or mechanical power, shall at all times, when such machine may be hired or used by any person for the purpose of bathing, cause such machine to be drawn or moved into such a depth of water, or otherwise into such a position as will prevent any indecent exposure of any such person, when set down from such machine for the purpose of bathing or when bathing from such machine.

Moving of machines into a sufficient depth of water.—It is desirable, alike for the convenience of bathers and for the purpose of preventing indecent exposure of the person, that the proprietor should be required to move out the machines into a sufficient depth of water. These requirements appear to be met by clauses 7 and 11 of the model series.

Drawers, etc. to be worn by males.

8. Every person of the male sex above the age of *years* who may hire or use any bathing machine for the purpose of bathing, or may be set down from such machine for such purpose, shall at all times, while bathing, wear suitable drawers or other sufficient dress or covering to prevent indecent exposure of the person.

Bathing gowns to be worn by females.

9. Every person of the female sex who may hire or use any bathing machine for the purpose of bathing, or may be set down from such machine for such purpose, shall, at all times, while bathing, wear a suitable gown or other sufficient dress or covering to prevent indecent exposure of the person.

Use of bathing-dress.—As pointed out in a note on p. 297, clauses such as these appear unnecessary in connection with bathing otherwise than from machines. No separate charge for the use of bathing-dress can be fixed by the byelaws. The model series meets the difficulty, in accordance with what appears to be the usual practice, by fixing charges for the use of machines which are inclusive of the use of appropriate bathing-dress and of towels. *Seven years* may be inserted in clause No. 8.

For regulating the manner in which the bathing machines shall be used, and the charges to be made for the same.

Proprietor not to obstruct shore or strand.

10. Every proprietor or attendant of a bathing machine stationed on any stand and so constructed as to be capable of being drawn or moved to or from the station occupied by such machine on such stand by means of a horse or windlass, or

other animal or mechanical power shall, at all times, when such machine shall require to be so drawn or moved, cause the same to be drawn or moved with reasonable expedition and in such a manner as to avoid any improper obstruction of the shore [*or* strand] *, or any undue interference with the proper use of any other machine stationed on any part of such shore [*or* strand].*

Proprietor, etc., to send out machine when required.

11. A proprietor or attendant of a bathing machine stationed on any stand shall not, without reasonable excuse, at any reasonable time when such machine is not hired or in use for the purpose of bathing, neglect or refuse, upon the application of any person hiring or seeking to hire such machine for the purpose of bathing, to cause or allow such machine to be so hired and to be drawn or moved from its station on such stand to any suitable place whereat any such person may be set down for the purpose of bathing.

Hand-machines to be moved with a view to safety, etc.

12. Every proprietor or attendant of a bathing machine so constructed as to be capable of being drawn or moved by hand to or from the station occupied by such machine on any stand shall, whenever such machine may be hired or used to set down any person for the purpose of bathing from such machine, cause such machine, from time to time, as the state of the tide or other occasion may require, to be drawn or moved to such a position at such a distance from the water as to provide adequately for the safety and convenience of the person hiring or using such machine.

Use of bathing machines.—The model clauses for regulating the manner in which bathing machines are to be used, are framed so as to prevent any undue obstruction of the shore or strand, or of the use of other machines stationed thereon, in moving the machines to and from the stands; to require the proprietor to send out his machines at all reasonable times, and under all reasonable conditions, when desired by persons hiring, or seeking to hire them; and, in the case of machines which are moved by hand, to secure that proper attention is given to moving them when necessary for the safety or convenience of the bathers.

Charges for use of machines.

13. Every proprietor or attendant of a bathing machine stationed on any stand shall be entitled to demand and receive for the use of such machine when hired to set down any person

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* *Strike out the reference to the "shore" or the "strand," as the case may require.*

for the purpose of bathing a sum not exceeding in each case the charge hereinafter prescribed :—

	s.	*d.*
For every machine used by any person of the male sex above the age of *years* :—		
For a time not exceeding half an hour - -	,,	
For every additional half hour or portion thereof - - - - - - - -	,,	
For every machine used by any person of the female sex above the age of *years* :—		
For a time not exceeding half an hour - -	,,	
For every additional half hour or portion thereof - - - - - - - -	,,	
For every machine used by any person of the female sex above the age of *years* who shall, while bathing, require the services of an attendant of such machine :—		
For a time not exceeding half an hour - -	,,	
For every additional half hour or portion thereof - - - - - - - -	,,	
For every machine used by one child under the age of *years* and accompanied by an adult person not being an attendant of such machine :—		
For a time not exceeding half an hour - -	,,	
For every additional half hour or portion thereof - - - - - - - -	,,	
For every machine used by one child under the age of *years* for whom, while bathing, the services of an attendant of such machine shall be required :—		
For a time not exceeding half an hour - -	,,	
For every additional half hour or portion thereof - - - - - - - -	,,	
For every machine used by two or more children under the age of *years* and accompanied by an adult person not being an attendant of such machine :—		
For every such child for a time not exceeding half an hour - - - - - - -	,,	
For every additional half hour or portion thereof - - - - - - - -	,,	

	s.	d.
For every machine used by two or more children for whom, while bathing, the services of an attendant of such machine shall be required :—		
For every such child, for a time not exceeding half an hour - - - - - - - -	,,	
For every additional half hour or portion thereof - - - - - - - - -	,,	

The several amounts hereinbefore prescribed shall include charges for the provision by the proprietor, and the reasonable use by the bather, of the several articles specified in the following regulations :— Use of certain articles included.

(i.) For every person of the male sex above the age of *years* :—

(*a.*) Two clean towels ;

(*b.*) One clean pair of suitable drawers or other clean and sufficient covering to prevent indecent exposure of the person.

(ii.) For every person of the female sex above the age of *years* :—

(*a.*) Two clean towels ;

(*b.*) One clean gown or other clean and sufficient dress or covering to prevent indecent exposure of the person.

(iii.) For every child under the age of *years* :—

Two clean towels.

Charges for the use of machines.—As previously remarked, this clause fixes charges for the use of the bathing machines, which entitle the bathers to the use of appropriate bathing dress and of towels. If these articles are not supplied in consideration of the charges fixed by the byelaws for the use of the machines, the amounts to be paid for the use of dress and towels must be left to be determined by agreement between the proprietor and the bathers. They cannot form the subject of a separate byelaw, as charges to be made for machines are the only charges authorised by s. 69 of the Town Police Clauses Act, 1847, to be fixed by the byelaws. Where, as in some places, machines are let for the season at special charges, some such addition as the following may be suggested:

	s.	d.
For the use of a machine by *one person* throughout the season, *once a day*, between the hours when bathing machines can usually be hired to set down persons for bathing - - - - - -	,,	

Charge for "the season."

The expression "the season," as used in this byelaw, means .

For regulating the distance at which boats and vessels let to hire for the purpose of sailing or rowing for pleasure shall be kept from persons bathing within the prescribed limits.

Boats to be kept at a distance.

14. Every person in charge of any boat or vessel let to hire for the purpose of sailing or rowing for pleasure, shall, at all times when so sailing or rowing, cause such boat or vessel to be kept at a distance not less than *yards* from every person bathing within the limits within which, in accordance with the byelaw in that behalf, such person may be set down for the purpose of bathing or may bathe:

Provided always, that this byelaw shall not apply in any case, in which, in consequence of actual or threatened danger to life, or of any other sufficient reason, the person in charge of such boat or vessel shall not cause such boat or vessel to be kept at the distance herein-before specified from any person bathing within the aforesaid limits.

Boats to be kept at a distance.—It will be a question of fact whether, in any particular case, a person was "in charge" of a boat or vessel which may not have been kept at the prescribed distance from bathers, and whether the boat was being sailed or rowed "for pleasure." The proviso to the clause allows a reasonable latitude for contingencies. It will be observed that, by reason of the terms of s. 69 of the Town Police Clauses Act, 1847, only such boats and vessels as are "let to hire for the purpose of sailing or rowing for pleasure," can be dealt with by byelaws made under that enactment. The distance to be inserted in this clause must depend somewhat upon the circumstances of the case; *twenty* or *thirty yards*, or even more, may be prescribed.

Penalties.

Penalties.

15. Every person who shall offend against any of the foregoing byelaws, shall be liable for every such offence to a penalty of :

Provided nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalty.—Any sum not exceeding "*five pounds*" may be inserted. The second paragraph is required in order to satisfy the requirements of s. 183 of the Public Health Act, 1875.

Recovery of Penalties.—As to the recovery of penalties, see s. 251 of the Public Health Act, 1875, and notes thereon, in Lumley's Public Health, 5th ed., p. 333.

Saving for rights of Crown.

16. Nothing in or done under any of the provisions of the foregoing byelaws shall, in any respect, prejudice, or injuriously affect the rights and interests of the Crown in the foreshore below high-water mark. Saving.

Rights of the Crown in the foreshore.—The soil or property in the foreshore between high and low water mark, is *primâ facie* vested in the Crown, although in certain cases other persons may have a grant of it. In the absence of all evidence of particular usage, the extent of the right of the Crown to the seashore landwards is *primâ facie* limited by the line of the medium high tide between the springs and the neaps (*Att.-Gen.* v. *Chambers* (1854), 4 De G. M. & G. 206; 23 L. J. Ch. 662; 11 Jur. 779). There is nothing in the 69th section of the Town Police Clauses Act, 1847, which in any way limits the rights of the Crown, and consequently of its grantees, and therefore the license of the local authority will not warrant the licensee in placing two bathing machines on any part of the foreshore which is private property without the consent of the owner (*Mace* v. *Philcox* (1864), 15 C. B. (N.S.) 600; 33 L. J. C. P. 124; 10 Jur. (N.S.) 680; 9 L. T. 766; 12 W. R. 670; 28 J. P. 297). And there is no public right of bathing on or of access to the seashore for bathing, which can justify the proprietor of bathing machines using the shore for his machines for profit, as against a lord of the manor, being the owner of the soil, and having from time immemorial had an exclusive user of the shore for the purpose of fishing by stake nets (*Blundell* v. *Catterall* (1821), 5 B. & Ald. 268; 24 Rev. Rep. 353).

The foreshore between high and low water mark around the coast of Cornwall and part of Devon, is *primâ facie* parcel of the possessions of the Duchy of Cornwall. (See s. 37 of the Duchy of Cornwall Management Act, 1863.) Where this is the case, the necessary alterations should be made in clause 16 and the heading thereto.

Repeal of Byelaws.

17. From and after the date of the confirmation of these byelaws, the byelaws relating to public bathing, which were made by the on the day of in the year one thousand eight hundred and , and which were confirmed by [one of Her Majesty's Principal Secretaries of State] [the Local Government Board] on the day of in the year one thousand eight hundred and shall be repealed. Repeal.

Repeal of byelaws.—If there are in force in the district any byelaws with respect to public bathing in connection with machines, which the local authority are desirous of repealing, the blank spaces in this clause should be filled, before the draft is submitted to the Local Government Board.

SERIES IX.

PUBLIC BATHS AND WASHHOUSES,

AND AN

OPEN BATHING PLACE: DUTIES OF OFFICERS.

PUBLIC BATHS AND WASHHOUSES, AND AN OPEN BATHING PLACE: DUTIES OF OFFICERS.

MEMORANDUM.

By section 10 of the Public Health Act, 1875 (38 & 39 Vict, c. 55), it is provided that where the Baths and Washhouses Acts are in force within the district of an Urban Authority, such authority shall have all powers, rights, duties, capacities, liabilities, and obligations in relation to such Acts exercisable by or attaching to the Council, Incorporated Commissioners, Local Board, Improvement Commissioners, and other Commissioners or persons acting in the execution of the said Acts. It is also provided that where the Baths and Washhouses Acts are not in force within the district of any Urban Authority, such authority may adopt such Acts. 38 & 39 Vict. c. 55, s. 10.

By section 34 of the 9 and 10 Vict. c. 74 (An Act to encourage the establishment of Public Baths and Washhouses) it is enacted that "the byelaws which the Council and Commissioners respectively may from time to time make, alter, repeal, and enforce, shall include such byelaws for the management, use, and regulation of the public baths and washhouses and open bathing places, and of the persons resorting thereto respectively, and for determining from time to time the charges for the use of such baths and washhouses and open bathing places respectively, as the Council and Commissioners respectively shall think fit, and they respectively may appoint any penalty not exceeding five pounds for any and every breach, whether by their officers or servants or by other persons, of any byelaw made by them respectively, and such byelaws shall make sufficient provision for the several purposes respectively expressed in the Schedule A. to this Act." 9 & 10 Vict. c. 74, s. 34.

It is also provided by section 34, that no byelaw made under the authority of the Act shall be of any legal force until the same shall have received the approval of one of Her Majesty's Principal Secretaries of State. For such approval that of the

Local Government Board is now substituted by the operation of the Local Government Board Act, 1871 (34 & 35 Vict. c. 70).

Subjects of byelaws. 9 & 10 Vict. c. 74, Schd. A.

Schedule A. to the 9 & 10 Vict. c. 74 is in the following terms:—

"BYELAWS to be made in all cases.

"For securing that the baths and washhouses and open bathing places shall be under the due management and control of the officers, servants, or others appointed or employed in that behalf by the Council or Commissioners:

"For securing adequate privacy to persons using the baths and washhouses and open bathing places, and security against accidents to persons using the open bathing places:

"For securing that men and boys above eight years old shall bathe separately from women and girls and children under eight years old:

"For preventing damage, disturbance, interruption, and indecent and offensive language and behaviour, and nuisances:

"For determining the duties of the officers, servants, and others appointed by the Council or Commissioners."

"*In parishes. For regulating the procedure of the Commissioners.*"

Publication of byelaws at baths and washhouses. 9 & 10 Vict. c. 74, s. 35.

By section 35 of the 9 & 10 Vict. c. 74 it is enacted that "a printed copy or sufficient abstract of the byelaws relating to the use of the baths and open bathing places repectively shall be put up in every bath room and open bathing place respectively; and a printed copy or sufficient abstract of the byelaws relating to the use of the washhouses shall be put up in some convenient place near every washing tub or trough, or every pair of washing tubs or troughs, in every washhouse."

Incorporation of Companies Clauses Consolidation Act, 1845. 9 & 10 Vict. c. 74, s. 23.

A previous section (23) enacts that the provisions of the Companies Clauses Consolidation Act, 1845, "with respect to the making of byelaws, subject to the provision herein-after contained, and the provisions of the same Act with respect to the recovery of damages not specially provided for, and penalties so far as such provisions may respectively be applicable to the purposes of this Act [9 & 10 Vict. c. 74], shall be respectively incorporated with this Act." . . .

Appeal to quarter sessions.

"Every person who shall feel aggrieved by any byelaw . . . of . . . the Council or Commissioners shall have

the like power of appeal to the General Quarter Sessions as under the provisions of the Companies Clauses Consolidation Act, 1845, incorporated with this Act, he might have if feeling aggrieved by any determination of any justice with respect to any penalty." (9 and 10 Vict. c. 74, sect. 30.) 9 & 10 Vict. c. 74, s. 30.

With respect to the making of byelaws the Companies Clauses Consolidation Act, 1845 (8 Vict. c. 16), contains the following provisions:— 8 Vict. c. 16, ss. 124, 126, 127.

"It shall be lawful for the company from time to time to make such byelaws as they think fit for the purpose of regulating the conduct of the officers and servants of the company, and for providing for the due management of the affairs of the company in all respects whatsoever, ... and from time to time to alter or repeal any such byelaws, and make others, provided such byelaws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect, or to the provisions of this or the special Act; and such byelaws shall be reduced into writing, and shall have affixed thereto the common seal of the company; and a copy of such byelaws shall be given to every officer and servant of the company affected thereby" (section 124).

"All the byelaws to be made by the company shall be so framed as to allow the justice (*sic*) before whom any penalty imposed thereby may be sought to be recovered, to order a part only of such penalty to be paid if such justice (*sic*) shall think fit" (section 126).

"The production of a written or printed copy of the byelaws of the company having the common seal of the company affixed thereto, shall be sufficient evidence of such byelaws in all cases of prosecution under the same" (section 127).

Privacy of persons using washhouses and open bathing places.

It will be observed that schedule A. to the 9 and 10 Vict. c. 74 authorises byelaws for securing adequate privacy to persons using the washhouses and open bathing places and security against accidents to persons using the open bathing places. Byelaws for these purposes are not included in the model series.

In the case of public washhouses, the Board think that such privacy as may be reasonably necessary may most effectually be secured by the structural arrangement of the premises.

In the case of an open bathing place, it is of course desirable that either by its situation or by the erection of a suitable hoarding, fence, or partition, the bathers should as far as possible, be screened from the view of persons occupying premises in the vicinity or passing along any neighbouring thoroughfare. Perhaps, also, the Sanitary Authority may find it possible to provide separate dressing boxes for the bathers. Such means of securing privacy may, wherever practicable, be very properly adopted. But the small sum which the schedule to the 10 and 11 Vict. c. 61 has fixed as the price of admission to an open bathing place, will hardly justify expenditure in elaborate structural conveniences, and in most cases the Board assume that byelaws such as those which they have suggested for securing privacy to persons using the public baths could not easily be rendered applicable to an open bathing place.

Security against accidents to persons using open bathing places.

Nor have the Board been able to suggest a byelaw generally applicable for the purpose of providing security against accidents to persons using an open bathing place. Security against accident must very often depend upon the judicious choice of a situation for the bathing place. The provision of suitable means of rescue from danger is an obvious precaution which should not be overlooked, and among the byelaws which the Board have framed for determining the duties of the superintendent of an open bathing place, is one which requires the superintendent to keep ready and fit for use any life-saving apparatus which may be committed to his charge.

But the rules which may in each case be imposed for the protection of bathers will derive their chief value from a careful consideration of the nature and special requirements of the locality; and the subject is therefore one which lies beyond the range of model byelaws intended for general use.

JOHN LAMBERT,
Secretary.

Local Government Board,
25th July, 1877.

Authorities competent to adopt the model byelaws.—In order to enable byelaws to be made as to public baths and washhouses, the Baths and Washhouses Acts, 1846 to 1882, must first have been adopted for the district or parish, as the case may be. As regards places outside the metropolis, the Acts referred to can be adopted for an urban district by the urban district council, or for a rural parish, with the approval of the Local Government Board, by the parish meeting. In the case of an urban district, the Acts are

executed, after adoption, by the district council; and in the case of a rural parish, by the parish council, or if there is no parish council, by the parish meeting, except in cases where, under s. 36 (4) of the Local Government Act, 1894 (56 & 57 Vict. c. 73), the rural district council may exercise the powers of a parish council. The authority executing the Acts is the authority invested with the power of making byelaws under s. 34 of the Act of 1846. In London such byelaws may at present be made by commissioners appointed under s. 6 of that Act, or where, under s. 33 of the Local Government Act, 1894 (56 & 57 Vict. c. 73), the sanitary authority or other representative body have been invested with the powers of a parish council, by the sanitary authority or other body invested with such powers. The London Government Bill, however, will transfer the execution of the Baths and Washhouses Acts to the proposed borough councils, either directly or by scheme, according to circumstances.

Provisions of the model byelaws.—The model series comprise clauses designed to give effect to each of the paragraphs of Schedule (A.) to the Baths and Washhouses Act, 1846 (9 & 10 Vict. c. 74), except part of the second and the last paragraph. The reasons which influenced the Local Government Board in omitting byelaws for securing privacy to persons using the washhouses and open bathing places and security against accidents in the case of an open bathing place, are stated in the memorandum above. (See pp. 313, 314.) Byelaws for regulating the procedure of the local authority under the Baths and Washhouses Acts are probably unnecessary. Section 34 of the Act of 1846 authorises byelaws "for determining from time to time the charges for the use of the baths and washhouses and open bathing places respectively," but the enactment is in this respect superseded by the Baths and Washhouses Acts, 1847 and 1878 (10 & 11 Vict. c. 61; 41 Vict. c. 14), which prescribe the maximum charges that are to be made for the use of public baths and washhouses and open bathing places. Within the limits thus imposed, the authority executing the Acts are to make such "reasonable charges" as they think fit.

Duties of officers and servants.—The duties of officers and servants appointed by a local authority under the Public Health Act, 1875, may be determined by "regulations" made under s. 189 of that Act, and such regulations are not subject to any confirmation or approval (s. 188). As the Baths and Washhouses Acts have not been incorporated with the Act of 1875, the duties of officers and servants appointed under those Acts cannot be determined by means of such regulations. Byelaws on this subject can, however, be made under paragraph 5 of Schedule (A.) to the Baths and Washhouses Act, 1846.

Approval of byelaws.—The non-incorporation of the Baths and Washhouses Acts with the Public Health Act, 1875, has the further result that the provisions of the latter Act with regard to the making and confirmation of byelaws do not apply to byelaws for the management, use, and regulation of public baths and washhouses. Section 34 of the Baths and Washhouses Act, 1846, as amended by the Local Government Board Act, 1871 (34 & 35 Vict. c. 70), provides, however, that no byelaw made under the first-mentioned Act shall be of any legal force until approved by the Local Government Board.

Byelaws as to swimming baths when used for purposes of recreation, etc.—The Baths and Washhouses Act, 1878, authorises the closing for not more than five months in the year, from the beginning of November to

the end of March, of any covered or open swimming bath provided under the Baths and Washhouses Acts, and the use of the bath during that time as a gymnasium or otherwise for the purposes of healthful recreation or exercise. The authority executing the Acts may also, at any time, allow any portion of the public baths not required by the authority, to be used for holding vestry meetings, or other parochial purposes. Byelaws may be made by the authority for the regulation, management, and use of the open or swimming baths when used for any of the purposes mentioned; and all the provisions in the Act of 1846 relating to byelaws are extended, so as to apply to byelaws so made (41 Vict. c. 14, ss. 5, 6). The model byelaws of the Local Government Board do not comprise any clauses of this kind.

SERIES IX.

(i.) Management, etc., of Public Baths.

[Note.—*Any local authority proposing to make byelaws on these subjects should apply to the Local Government Board for draft forms on which to submit the byelaws for the Board's preliminary approval, before they are adopted by the local authority.*]

BYELAWS

MADE BY THE* FOR THE MANAGEMENT, USE, AND REGULATION OF THE PUBLIC BATHS.

Interpretation of Term.

1. Throughout these byelaws the expression "the Council" means the* . Interpretation.

For securing that the baths shall be under the due management and control of the officers, servants or others appointed or employed in that behalf by the Council :

For securing adequate privacy to persons using the baths :

For securing that men and boys above eight years old shall bathe separately from women and girls and children under eight years old :

For preventing damage, disturbance, interruption, and indecent and offensive language and behaviour, and nuisances.

2. Every person resorting to the public baths shall, before being admitted to any bath or bath-room, obtain, by payment, from the authorised money-taker, a ticket whereon shall be stated, in addition to such other particulars as the Council may from time to time direct, the class or description of bath to which such person shall be entitled to be admitted. Ticket to be taken.

* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or*, "Urban District Council of ," *as the case may be.*

Such person before being admitted to use such bath shall, upon the application of any person appointed or acting as an attendant of such bath, deliver such ticket to such attendant.

General management of baths.—The clauses suggested in the model series for securing that the baths shall be under the due management and control of the officers and servants employed by the district council, are to be read in connection with sub-series (iv.), determining the duties of such officers and servants. It will be seen that, in accordance with the usual practice, the byelaws require each person who desires to use the baths to purchase a ticket stating the class or description of bath which he is entitled to use in consideration of the sum paid by him. The officer from whom he will obtain the necessary ticket is termed a "money-taker," and the ticket is to be given up to the "bath attendant" by whom he is admitted to the separate bath-room or the swimming-bath, as the case may be. The arrangement prevents any question as to the class of accommodation to which the intending bather is entitled, and so far clearly tends to secure that the baths shall be under the due management and control of the officers and servants. The further use of the ticket, to which, as issued to the money-taker, a counterfoil will be attached, will be obvious when the forms of accounts to be kept by certain of the officers come under consideration.

Charges for admission to the baths.—The charges that can be made for the several classes of baths are fixed by s. 7 and the schedule to the Baths and Washhouses Act, 1847 (10 & 11 Vict. c. 61), and s. 4 and the schedule to the Baths and Washhouses Act, 1878 (41 Vict. c. 14).

Forcible or other improper intrusion.

3. A person resorting to the public baths shall not, by forcible or improper means, seek admission to any bath-room or compartment which shall be occupied by any person using a separate bath.

4. A person resorting to the public baths shall not by forcible or improper means, seek admission to any swimming bath at any time when such swimming bath, or the dressing-rooms, closets, boxes, or compartments attached thereto, shall be occupied by the full number of persons authorised to use, at one and the same time, such swimming bath, or dressing-rooms, closets, boxes, or compartments.

5. A person resorting to the public baths shall not by forcible or improper means, seek admission to any bath before any person who, by priority of payment, shall be entitled to prior admission to such bath.

Use of bath of higher

6. A person resorting to the public baths shall not knowingly use any bath of a higher class or description

than that of the bath for which he shall have obtained a ticket of admission. class than that paid for.

Prohibition of improper intrusion.—Clauses 3, 4 and 5 of this sub-series prevent the improper intrusion of intending bathers into separate bath-rooms which are already occupied, or into a swimming bath to which the full number of bathers which it will accommodate have already been admittted, and require that each person taking a ticket shall await his proper turn for admission. The next clause makes a person liable to a penalty, if he knowingly makes use of a bath of a higher class than he has paid for. These provisions appear to be authorised by the first, second and fourth paragraphs of Schedule (A.) to the 9 & 10 Vict. c. 74, and are necessary for the proper management of the baths.

7. Every person resorting to the public baths shall, while waiting on the premises for admission to any bath or bath-room, remain only in such portion of the premises as shall be set apart as a waiting-room for intending bathers. Persons waiting to bathe.

8. A person resorting to the public baths shall not after using any bath or quitting any bath-room, loiter or remain, without reasonable excuse, in any passage leading to or from any bath or bath-room. Loitering after bathing.

Regulations as to persons waiting to bathe, or who have bathed.—Clause 7 contemplates the provision of some sort of waiting-room for persons who cannot be at once accommodated with a bath. Clause 8 will only apply where a person loitering after bathing has no "reasonable excuse" for remaining.

9. A person resorting to the public baths shall not, at any time after being admitted to any swimming bath, or while occupying any dressing-room, closet, box, or compartment attached thereto, enter or seek admission to any other dressing-room, closet, box, or compartment, when occupied by any person, without the consent of such person, or otherwise knowingly intrude upon or interfere with the privacy of any other person using such swimming bath, or occupying any dressing-room, closet, box, or compartment attached thereto. For securing privacy to bathers.

10. A person resorting to the public baths shall not, at any time, after being admitted to or while occupying any bath-room or compartment containing a separate bath, enter or seek admission from such bath-room or compartment to any adjoining bath-room or compartment when occupied by any person, without the consent of such person, or otherwise knowingly intrude upon or interfere with the privacy

of any person occupying any adjoining bath-room or compartment.

Further provisions for securing privacy.—Clauses 9 and 10 of sub-series (i.) are to some extent similar to clauses 3 and 4. While, however, the first-mentioned clauses apply to persons who have obtained admission to a swimming bath or separate bath-room, the two earlier clauses only affect persons seeking admission.

Men and boys to bathe separately from women, girls, and children under eight years of age.

11. A man or boy above eight years old resorting to the public baths shall not enter or use any bath which shall be appointed or appropriated for the use of any woman, or girl, or child under eight years old.

12. A woman, or girl, or child under eight years old resorting to the public baths shall not enter or use any bath which shall be appointed or appropriated for the use of any man or boy above eight years old.

Sexes to bathe separately.—In referring, on the one hand to men and boys above eight years old, and on the other to women, girls, and children under eight years old, the byelaws follow the terms of the third paragraph of Schedule (A) to the Baths and Washhouses Act, 1846.

For preventing damage.

13. Every person resorting to the public baths shall, at all times, exercise reasonable and proper care in the use of any bath or bath-room, dressing-room, closet, box, or compartment.

14. A person resorting to the public baths shall not, at any time, carelessly or negligently break, or injure, or improperly interfere with the due and efficient action of, any lock, cock, valve, pipe, work, or engine or machinery in connection with any bath, or carelessly or negligently injure any furniture, fittings, or conveniences of any bath, bath-room, dressing-room, closet, box, or compartment.

15. A person resorting to the public baths shall not, at any time, carelessly or negligently injure or destroy any towel, or other linen, or other article supplied for his use.

Damage to property.—"For preventing damage," the byelaws require, generally, that persons shall exercise "reasonable and proper care" in the use of the baths, and attach a penalty to any act of carelessness or negligence resulting in injury to the furniture, fittings, or conveniences of the baths. The special reference to improper interference with "locks, cocks, valves," etc., is justified by the ease with which damage may be done by this means; but all cocks and valves, other than those required for the regulation of the

supply of water to separate baths, should, as well as any "engine or machinery," be so placed as not to be accessible to persons using the baths. Wilful damage, which is punishable under the general law, is not covered by the byelaws. (See 24 & 25 Vict. c. 97.)

16. A person resorting to the public baths shall not, at any time, while being upon the premises, by any disorderly or improper conduct disturb or interrupt any other person in the proper use of any bath, bath-room, dressing-room, closet, box, or compartment, or any officer, servant, or person appointed or employed by the Council in the proper execution of his duty. For preventing disturbance or interruption.

17. A person resorting to the public baths shall not cause or allow any dog belonging to such person, or under his control, to enter or remain in any bath, bath-room, dressing-room, closet, box, or compartment, or in any passage leading to or from any bath or bath-room. Dogs not admitted.

18. A person resorting to the public baths shall not, at any time, while being upon the premises use any indecent and offensive language, or behave in an indecent and offensive manner. Indecent and offensive language and behaviour.

Prohibition of indecent and offensive language and behaviour.—Note the copulative: the language or behaviour must be both indecent *and* offensive in order to bring it within the scope of the byelaw, which, in this respect, follows the terms of the statute. Section 11 of the 41 Vict. c. 14, provides for the exclusion from the baths of any person who shall have been convicted of any offence against public decency in any bath, washhouse, open bathing place, or covered swimming bath, established under the Baths and Washhouses Acts; and, by the previous section, it is enacted that any bath so established shall be taken to be a public and open place, so as to make an offence against decency therein a criminal offence.

19. A person resorting to the public baths shall not, at any time, while being in any swimming bath use any soap or other substance or preparation whereby the water in such swimming bath may be rendered turbid or unfit for the proper use of bathers. Soap not to be used in swimming bath.

20. A person resorting to the public baths shall not wilfully and improperly foul or pollute the water in any separate bath or in any swimming bath or wilfully and improperly soil or defile any towel, bathing drawers, or bathing dress supplied for his use, or any bath-room, dressing-room, closet, box, or compartment, or any furniture or article therein. Fouling water, etc.

Persons suffering from disease.

21. A person resorting to the public baths shall not, at any time, while suffering from any cutaneous, infectious, or contagious disease enter or use any swimming bath or any separate bath.

Persons suffering from disease.—Section 126 of the Public Health Act, 1875, renders any person liable to a penalty if, while suffering from any "dangerous infectious disorder," he wilfully exposes himself, without proper precautions against spreading the said disorder, in any "public place." This enactment appears to be inapplicable to baths provided under the Baths and Washhouses Acts, as such baths would seem not to be a "public place" within the meaning of the section. For another purpose (see note on clause 18), special provision has been deemed necessary to constitute the baths a "public and open place" (41 Vict. c. 14, s. 10).

Penalties.

Penalties.

22. Every person resorting to the public baths who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of :

Provided, nevertheless, that the justices before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Penalty for breach of byelaws.—The maximum amount of the penalty which may be imposed by these byelaws is "5*l.* for any and every breach" (9 & 10 Vict. c. 74, s. 34). In connection with this clause, see also the provisions of ss. 125 and 126 of the Companies Clauses Consolidation Act, 1845, incorporated with the Baths and Washhouses Act, 1846, by s. 23 of that Act.

Removal, etc., of offenders.—By ss. 10 and 11 of the 41 Vict. c. 14, the urban district council and their officers are empowered to remove from the baths persons offending against any byelaw made under the Baths and Washhouses Acts, and to refuse admittance to any bath to any person who shall have been convicted of wilfully disobeying any of the byelaws in such bath.

SERIES IX.

(ii.) MANAGEMENT, ETC., OF PUBLIC WASHHOUSES.

[NOTE.—*Any local authority proposing to make byelaws on these subjects should apply to the Local Government Board for draft forms on which to submit the byelaws for the Board's preliminary approval, before they are adopted by the local authority.*]

BYELAWS

MADE BY THE* FOR THE MANAGEMENT, USE, AND REGULATION OF THE PUBLIC WASHHOUSES.

Interpretation of Term.

1. Throughout these byelaws the expression "the Council" means the* . Interpretation.

For securing that the washhouses shall be under the due management and control of the officers, servants, or others appointed or employed in that behalf by the Council:

For preventing damage, disturbance, interruption, and indecent and offensive language and behaviour, and nuisances.

2. A person resorting to the public washhouses shall not use any washing-tub or trough, or any copper or boiler for washing, or any conveniences for drying any clothes or other articles, until such person shall have obtained from the authorised money-taker a ticket whereon shall be stated, in addition to such other particulars as the Council may from time to time direct, the class of washing tub or trough, copper or boiler, or conveniences for drying which such person may be admitted to use. Ticket to be taken.

3. Every person resorting to the public washhouses who shall have been admitted to use any washing-tub or trough, copper or boiler, or conveniences for drying shall, before Ticket to be produced to attendant, and proper charge paid.

* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or*, "Urban District Council of ," *as the case may be.*

quitting the public washhouses, produce, upon the application of any attendant of such washhouses, the ticket of admission which may have been issued to such person by the authorised money-taker, and such person shall allow such attendant to enter in such ticket and duly sign an exact statement of the time at which such person shall have ceased to use such washing-tub or trough, copper or boiler, or conveniences for drying.

Such person shall before quitting the public washhouses, deliver to the authorised money-taker the ticket duly signed by the attendant, and shall, upon the application of such money-taker, pay to him the sum prescribed as the authorised charge for the use during the time specified in such ticket of the washing-tub or trough, copper or boiler, or conveniences for drying which such person may have been admitted to use.

Persons waiting to wash.

4. Every person resorting to the public washhouses, shall, while waiting for admission to use any washing-tub or trough, or any copper or boiler, or any conveniences for drying, remain only in such portion of the premises as shall be set apart as a waiting room for intending washers.

Use of tubs, etc., of higher class than that paid for.

5. A person resorting to the public washhouses shall not knowingly use any washing-tub or trough, or any copper or boiler, or any conveniences for drying, of a higher class than that of the washing-tub or trough, copper or boiler, or conveniences for drying for which such person shall have obtained a ticket of admission.

Use of tubs, etc., out of turn.

6. A person resorting to the public washhouses shall not, by forcible or improper means, use any washing-tub or trough, or any copper or boiler, or any conveniences for drying, before any person who, having previously obtained the necessary ticket from the authorised money-taker, shall be entitled to prior admission to the use, and shall not have ceased to require the use, of such washing-tub or trough, copper or boiler, or conveniences for drying.

General management of the washhouses.—As in the case of the byelaws for securing that the baths shall be under the due management and control of the officers and servants, the corresponding clauses of this sub-series require to be considered in connection with sub-series (iv.), which prescribes the duties of the officers and servants. In this case also the byelaws provide for the issue to a "money-taker" of tickets with counterfoils; and a person desiring to make use of the accommodation provided must take one of these tickets, but does not immediately make any payment to the money-taker. The ticket

shows what class or description of washing apparatus such person is to have the use of, and the money-taker will enter upon the ticket the exact time at which the apparatus is given over to her use. When she has completed her operations, she will hand her ticket to an "attendant," and the latter will mark upon it the exact time when she ceased to have the use of the apparatus. She will then present the ticket to the money-taker and pay the authorised charge for the time during which she is shown by the ticket as so marked to have been using the apparatus. The further use of the ticket in connection with the forms of accounts prescribed by the model clauses will be seen later. Clauses 4, 5 and 6 do not differ materially from the corresponding clauses in sub-series (i.).

Charges for the use of the washhouses.—The maximum charges that can be made for the use of washhouses for the labouring classes are fixed by s. 7 of the Baths and Washhouses Act, 1847, and the schedule to that Act. There is no statutory limit to the charges that may be made for washhouses of any higher class. As to the recovery of charges at public washhouses, see s. 38 of the Act of 1846.

For preventing damage.

7. Every person resorting to the public washhouses shall at all times exercise reasonable and proper care in the use of any washing-tub or trough, or any copper or boiler, or any conveniences for drying.

8. A person resorting to the public washhouses shall not at any time carelessly or negligently break or injure, or improperly interfere with the due and efficient action of any lock, cock, valve, pipe, work, or engine or machinery constructed, provided, or used for or in connection with the supply of water to any washing-tub or trough, or any copper or boiler, or carelessly or negligently injure any furniture, fittings, or conveniences, of the public washhouses.

9. A person resorting to the public washhouses shall not wilfully or improperly remove or displace, or wilfully, carelessly, or negligently soil or dirty, or carelessly or negligently injure or destroy, any clothes or other articles brought to be washed by any other person resorting to the public washhouses.

Damage to property.—In connection with these clauses, reference may be made to the note (p. 320) on clauses 13 to 15 of sub-series (i.). Clause 9 of the sub-series now under consideration provides proper protection for each washerwoman against some possible acts of malice or carelessness on the part of other washerwomen, tending to hinder her in her work, or sully the linen upon which she has expended her labours in the washhouses. Any injury to, or destruction of, linen for the time being in the hands of another washerwoman, will also, if not amounting to wilful damage, come within the byelaw. The disturbance or interruption of another person in the proper use of the washing-tubs, etc., if occasioned by disorderly or improper conduct can be dealt with under clause 10.

For preventing disturbance and interruption.

10. A person resorting to the public washhouses shall not, at any time, while being upon the premises, by any disorderly or improper conduct disturb or interrupt any other person in the proper use of any washing-tub or trough, or any copper or boiler, or any conveniences for drying, or any officer, servant, or person employed by the Council in the proper execution of his duty.

11. A person resorting to the public washhouses shall not, at any time, while using or before or after using any washing-tub or trough, copper or boiler, or any conveniences for drying, deposit any clothes or other articles or any receptacle for clothes or other articles, or cause or allow such clothes, articles, or receptacle to be deposited or to remain in such manner or position as to obstruct any passage through, or means of entrance to or egress from the public washhouses, or in such manner or position as to disturb or interrupt any other person in the proper use of any washing-tub or trough, copper or boiler, or any conveniences for drying.

Disturbance or interruption.—See note, *ante*, as to clause 9. Of the two clauses now in question, No. 11 appears to be, in part, one for securing that the washhouses shall be under due management and control; but the byelaw recognises that an untidy washerwoman may, by surrounding herself with buckets, cans, clothes-baskets, or heaps of soiled linen, interrupt or disturb other persons in the proper use of the apparatus and conveniences provided.

Indecent and offensive language and behaviour.

12. A person resorting to the public washhouses shall not, at any time, while being upon the premises use any indecent and offensive language, or behave in an indecent and offensive manner.

Prohibition of indecent and offensive language and behaviour.—The note (p. 321) on clause 18 of the first sub-series may be referred to. The district council and their officers have power, as regards the washhouses as well as the baths, to refuse admittance to persons who have been convicted of an offence against public decency in any bath, washhouse, open bathing place, or covered swimming bath, establised under the Baths and Washhouses Acts. Offences against decency in the washhouses are criminal offences (41 Vict. c. 14, ss. 10, 11).

Dogs not admitted.

13. A person resorting to the public washhouses shall not cause or allow any dog belonging to or under the control of such person to enter or remain in any part of the premises.

Penalties.

14. Every person resorting to the public washhouses who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of : Penalties.

Provided, nevertheless, that the justices before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Penalties.—Any sum not exceeding "*five pounds*" may be inserted. (See note (p. 322) on the penalty clause of sub-series (i.).) Power to remove or exclude from the washhouses offenders against the byelaws, is conferred upon the district council and their officers by ss. 10, 11 of the Baths and Washhouses Act, 1878.

SERIES IX.

(iii.) MANAGEMENT, ETC., OF AN OPEN BATHING PLACE.

[NOTE.—*Any local authority proposing to make byelaws on these subjects should apply to the Local Government Board for draft forms on which to submit the byelaws for the Board's preliminary approval, before they are adopted by the local authority.*]

BYELAWS

MADE BY THE * FOR THE MANAGEMENT, USE, AND REGULATION OF AN OPEN BATHING PLACE.

Interpretation of Term.

Interpretation.

1. Throughout these byelaws the expression "the Council" means the *

For securing that the open bathing place shall be under the due management and control of the officers, servants, or others appointed or employed in that behalf by the Council :

For preventing damage, disturbance, interruption, and indecent and offensive language and behaviour, and nuisances.

Proper charge to be paid.

2. Every person resorting to the open bathing place shall, before being admitted to such bathing place, pay to the officer, servant or person appointed or employed by the Council for the management and control of such bathing place, the sum prescribed as the charge for the use by such person of such bathing place.

Entrance and exit.

3. A person resorting to the open bathing place shall not enter or quit such bathing place otherwise than through the door, gate, wicket, passage, or opening appointed by the Council as the authorised means of entrance to or egress from such bathing place.

Management and control of the open bathing place.—The model byelaws do not contemplate that the services of more than one officer will be required for the management and control of an open bathing place. This

* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or*, "Urban District Council of "; *as the case may be.*

officer's duties are prescribed by sub-series (v.) of these byelaws ("For determining the duties of 'the superintendent' of the open bathing place"). As remarked in the memorandum prefixed to the series, such places are not usually distinguished by extensive structural conveniences, and are often little more than a shed or screen under cover of which men and boys may dress and undress. Accordingly no elaborate code of regulations for the management of an open bathing place is prescribed by the model byelaws. The object of clause 3 of the present sub-series, which comes under this heading, is twofold. By requiring that all persons resorting to the bathing place shall enter and leave by the proper door or wicket, it facilitates the collection of the sum charged for admission, and the exercise by the superintendent of proper supervision of such persons while at the bathing place, and it helps to keep persons going to and from the bathing place from wandering over lands in private ownership, over which only a limited right of way may have been granted for access to the bathing place.

Charges for open bathing places.—The maximum charge for the use of an open bathing place, as fixed by the 10 & 11 Vict. c. 61, and the 41 Vict. c. 14, s. 14, is one penny for each person.

4. A person resorting to the open bathing place shall not, wilfully or improperly, remove or displace, or carelessly or negligently injure or destroy, any wearing apparel or other articles belonging to, or in the possession of or in use by any other person using such bathing place. For preventing damage.

5. A person resorting to the open bathing place shall not carelessly or negligently injure or destroy any building, erection, fence, wall, stile, or gate, or any furniture, fittings, or conveniences constructed, provided, or used in, upon, or in connection with such open bathing place.

Damage to property.—Having regard to the fact that bathers have, as a rule, in the case of an open bathing place, to leave their clothing and other portable property hanging upon pegs or nails, or deposited on a bench in a common shed, while they themselves are in the water, some special provision, such as is made by Byelaw No. 4, is necessary in order to prevent interference with the articles by other persons using the bathing place, and to protect the owners against injury to their property through the carelessness or negligence of such persons. The structure and fittings of the bathing place are protected so far as is necessary by clause 5. Wilful damage to the property of bathers, or to the bathing place, will be punishable under the general law.

6. A person resorting to the open bathing place shall not, by any disorderly or improper conduct, disturb or interrupt any other person in the proper use of such bathing place, or any officer, servant, or person appointed or employed by the Council in the proper execution of his duty. For preventing disturbance and interruption.

Indecent and offensive language and behaviour.

7. A person resorting to the open bathing place shall not, at any time, while using such bathing place use any indecent and offensive language, or behave in an indecent and offensive manner.

Indecent and offensive language and behaviour. — As previously noticed, the byelaws can only deal with language and conduct which are indecent *and* offensive. Byelaw No. 9 of this sub-series prohibits acts which, though offensive, are not necessarily indecent ; but that clause is to be regarded as one for preventing nuisances. Offences against decency in open bathing places are criminal offences, and any person who has been convicted of any offence against public decency in any bath, washhouse, open bathing place, or covered swimming bath established under the Bnths and Washhouses Acts may be excluded from an open bathing place (41 Vict. c. 14, ss. 10, 11).

Dogs not admitted.

8. A person resorting to the open bathing place shall not cause or allow any dog belonging to such person or under his control to enter or remain in or upon any part of such bathing place.

Defilement of buildings, etc.

9. A person resorting to the open bathing place shall not wilfully or improperly soil or defile any building, erection, fence, wall, stile, or gate, or any furniture, fittings, or conveniences constructed, provided, or used in, upon, or in connection with such bathing place, or any path, passage, or means of access to the water from such bathing place.

Defilement of buildings, etc.—See note on clause 7.

Penalties.

Penalties.

10. Every person resorting to the open bathing place, who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of :

Provided, nevertheless, that the justices before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Penalties.—Any sum up to "*five pounds*" may be inserted. Under ss. 10, 11, of the Baths and Washhouses Act, 1878 (41 Vict. c. 14), offenders against the byelaws may be removed or excluded from the open bathing place.

SERIES IX.

(iv.) Duties of Officers and Servants.

[Note.—*Any local authority proposing to make byelaws on these subjects should apply to the Local Government Board for draft forms on which to submit the byelaws for the Board's preliminary approval, before they are adopted by the local authority.*]

BYELAWS

MADE BY THE * FOR DETERMINING THE DUTIES OF THE OFFICERS AND SERVANTS OF THE PUBLIC BATHS AND WASHHOUSES.

Staff required for the public baths and washhouses.—The number of officers and servants required for the administration of the public baths and washhouses, will depend principally upon the size and arrangement of the buildings, and the extent to which they are patronised by the public. The model byelaws contemplate that, as a rule, it will be found necessary to appoint—

For the baths and washhouses—
- a superintendent,
- a matron,
- an engineer, and
- one or more stokers or firemen ;

For the baths—
- one or more money-takers,
- one or more male attendants, and
- one or more female attendants ;

For the washhouses—
- one or more money-takers, and
- one or more attendants.

The duties of more than one of the offices mentioned, may, in some cases, be assigned to one person : but all the duties enumerated in this sub-series will, in practice, have to be provided for in every case, assuming that washhouses as well as baths are established. Where there are no washhouses, the references to washhouses and the apparatus and conveniences provided therein should be struck out of the byelaws.

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* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or*, "Urban District Council of ," *as the case may be.*

Scheme of duties.—The following outline of the scheme of duties, settled by the model byelaws, may be found useful as a key to this sub-series. Commencing with officers whose functions are not such as to bring them into direct contact with the public, it may be stated that the *engineer*, assisted by the *stokers* or *firemen*, is to regulate the working of the machinery and keep the several parts in proper order. He is to keep an account of fuel and stores, which is to be submitted to the superintendent at the end of each week, and is to show the quantities of fuel and stores received, and consumed in the baths and washhouses respectively, during the week, and the estimated requirements in the matter of fuel and stores for the following week. He is to report to the superintendent any breach on the part of a stoker or fireman of the byelaws determining the duties of the latter. The *money-taker of the baths* is to receive money from persons seeking admission to the baths, and to issue to each a ticket showing the class or description of bath paid for. The ticket will be detached from a book of tickets (with counterfoils) provided by the council; and from the counterfoils the money-taker is to make up daily and submit to the superintendent, an account showing how many tickets he has sold for each class of bath, and the sums received for such tickets. The book containing the counterfoils will be submitted, and the money taken paid over to the superintendent at the same time. If the money-taker is permitted to sell soap to persons requiring it, he is in the same manner to account for any soap sold by him. The *money-taker of the washhouses* performs duties cognate to those of his confrère of the baths, but he does not take money from the washerwomen as they enter the washhouses. The arrangement in this respect is described at pp. 324, 325. The *bath attendants* are required to have the baths ready for use daily at the hour for opening the baths, to take from the bathers the tickets presented by them, and to see that the bath used in each case is not of a higher class than that paid for by the bather. After the use by any person of a separate bath, it is to be emptied and made ready for use again by the attendant; and at the end of the day, each bath under his charge is to emptied and cleansed, and the premises generally put in order for the following day. The tickets which he has received during the day are to be handed to the superintendent. The *washhouse attendants* perform similar duties in regard to the washhouses. If an attendant becomes aware of any breach of the byelaws having been committed, the facts are to be reported to the superintendent or the matron, according to circumstances. The attendants are responsible for the ticket of each washerwoman being so marked, when she has finished work, as to show what sum is due from her for the use of the washing-tubs, etc. The *matron* has to supervise the washhouses, and the baths for women and children, and to see that the duties of the attendants under her direction are properly performed. She takes charge of the towels and other articles for use in her department; and while not required to keep accounts, has to furnish the superintendent with written estimates of her requirements as regards such articles. Any breach of the byelaws coming to her knowledge is to be reported to the superintendent. The *superintendent's* duties extend to the direct supervision of the baths for men and boys, and the general control and direction of the rest of the premises, and of the entire subordinate staff. He is responsible for the custody and distribution of stores, and is from time to time to furnish estimates of any additional stores that may be required. Any structural or other defect that he may discover at the baths and washhouses, is to be brought to the notice of the Council. He is to see that the byelaws are duly observed by all concerned, and where they are infringed, he is to report the facts to the

Council. He has to compare the daily accounts and takings of the money-takers with the tickets and counterfoils, and once a week to pay over the moneys received by him to the treasurer of the Council. The accounts which he is required to keep are (*a*) a daily account and weekly summary of the baths supplied; (*b*) a daily account and weekly summary of the use of the tubs, etc., in the washhouses; (*c*) a day book; (*d*) a stock and stores account, and a quarterly summary thereof; and (*e*) a receipt and payment account (to be balanced weekly). These several accounts together with the bills and vouchers are to be produced to the Council at every ordinary meeting.

Accountability of officers.—Section 23 of the Baths and Washhouses Act, 1846, incorporates, so far as they are applicable, the provisions of ss. 109—114 of the Companies Clauses Consolidation Act, 1845, "with respect to the accountability of the officers of the [Council]." These provisions require, *inter alia*, that security shall be taken from all officers of the baths and washhouses who are to be entrusted with money, and empower the council to call for an account of all moneys received by any such officer on behalf of the Council. A summary remedy is applicable in the case of an officer failing to account.

Interpretation of Term.

Interpretation.

1. Throughout these byelaws the expression "the Council" means the* .

Duties of the Superintendent.†

Duties of superintendent.

2. The following shall be the duties of the superintendent of the public baths and washhouses:—

Opening and closing of baths and washhouses.

(1.) He shall cause the public baths to be opened on every week day at the hour of in the forenoon and to be closed at the hour of in the afternoon.

(2.) He shall cause the public baths to be opened on every Sunday at the hour of in the forenoon, and to be closed at the hour of in the forenoon.

Exclusion of general public from swimming bath during certain hours.—The question sometimes arises whether the local authority can, during

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* "Mayor, aldermen, and burgesses of the borough of , acting by the Council"; *or*, "Urban District Council of ," *as the case may be.*

† A summary of the duties of the superintendent of the baths and washhouses will be found in the note ("Scheme of duties") above.

certain defined hours, close to the public a swimming bath provided by them under the Baths and Washhouses Acts, and appropriate it during those hours to the exclusive use of members of a swimming club. There would seem, however, to be no authority for such an arrangement.

(3.) He shall cause the public washhouses to be opened on every week day at the hour of in the forenoon and to be closed at the hour of in the afternoon.

Inspection of premises.

(4.) He shall, on every day before the hour appointed respectively for the opening of the public baths and washhouses, visit and inspect every part of the premises and ascertain and take care that all baths, bath-rooms, dressing-rooms, closets, boxes, or compartments, washing-tubs or troughs, coppers or boilers, furniture, fittings, and conveniences of the public baths and washhouses are clean and in good order and ready for the use of persons resorting to such baths and washhouses.

(5.) He shall, on every day after the hour appointed respectively for the closing of the public baths and washhouses, visit and inspect every part of the premises and ascertain and take care that all fires are properly banked up or extinguished as the case may require, and that all lights are properly extinguished, that every separate bath, washing-tub or trough, copper or boiler, is properly emptied and cleansed, that the water for the supply of every such bath, washing-tub or trough, copper or boiler, has been properly turned off, and generally that due precautions have been taken to prevent waste or misuse of water.

Inspection of premises.—The supervision of the washhouses and of the baths for women and children, during the day, between the hours of opening and closing, devolves upon the matron, under clause 3 (1) of this sub-series. The superintendent, however, is required to go round the premises before the hour of opening and see that in every department both the baths and the washhouses are in good order and ready for use. In like manner, he must see that every part of the premises is left in proper order at the close of the day. It will be the matron's duty to have such parts of the premises as are under her immediate charge ready for the superintendent's inspection when he makes his rounds after closing-time (see clause 3 (3)).

Banking up of fires at night.—Where no part of the premises is open on Sunday, the fires will probably be extinguished when the baths and washhouses are closed on Saturday night. On other days, in the case of large establishments, the fires will usually be "banked-up" at the close of the day, so as to smoulder through the night and burn up readily when wanted in the morning. The engineer, assisted by the stokers or firemen, will do this, and the superintendent will merely have to see that it has been done properly before the premises are left for the night (see clauses 9 (6) and 10 (7) of the present sub-series).

(6.) He shall not, except in case of necessity, purchase or procure any articles for use in the public baths and washhouses, or order any alterations or repairs of any part of the premises, or of the furniture, fittings, conveniences, or articles belonging thereto, or pay any moneys on account of the public baths and washhouses without the directions of the Council, or apply any articles belonging to the public baths and washhouses to purposes other than those authorised or appointed by the Council. Not to purchase goods or pay moneys without direction, etc.

Ordering of goods, and payment of moneys.—The district council will consider whether, in their opinion, the superintendent should be entrusted with any general power of procuring stores, ordering repairs and alterations, paying bills, salaries, etc.; but it will probably be found best to retain this paragraph of clause 2, which provides for cases of emergency, but otherwise requires the superintendent to obtain the specific authority of the council before giving any such orders or making any such payment.

(7.) He shall accurately keep, in the form herein-after prescribed, a daily account of the number and classes of the baths supplied, of the number of persons of each sex and of children not above eight years old resorting to the public baths, and also of the sums received in respect of the use of such baths by such persons and children. Daily account (baths).

He shall, on the last day of every week, prepare and enter in the book containing such daily account a summary, in the form herein-after prescribed, of the several particulars shown in such account in respect of each day of such week. Weekly summary.

Forms of Account.

Public Baths for the Borough or District of .

THE SUPERINTENDENT'S DAILY ACCOUNT.

day the day of 18 .

Class or description of baths.	No. of baths supplied.	No. of Bathers.			Receipts.
		Males.	Females.	Children not above 8 years old.	
					£ s. d.
BATHS FOR THE LABOURING CLASSES.					
For male persons above 8 years old :					
Cold baths - - -					
Cold shower baths -					
Warm baths - -					
Warm shower baths -					
Vapour baths - -					
For female persons above 8 years old :					
Cold baths - - -					
Cold shower baths -					
Warm baths - -					
Warm shower baths -					
Vapour baths - -					
For children not above 8 years old, bathing together :					
Cold baths - - -					
Cold shower baths -					
Warm baths - -					
Warm shower baths -					
Vapour baths - -					
BATHS OF ANY HIGHER CLASS. *					
Total - - -					

* Here insert the description of the several baths comprised in this class.

WEEKLY SUMMARY.

For the week ending the day of 18 .

Class or Description of Baths.	No. of baths supplied.	No. of Bathers.			Receipts.
		Males.	Females.	Children not above 8 years old.	
BATHS FOR THE LABOURING CLASSES.					£ *s.* *d.*
For male persons above 8 years old:					
Cold baths					
Cold shower baths					
Warm baths					
Warm shower baths					
Vapour baths					
For female persons above 8 years old:					
Cold baths					
Cold shower baths					
Warm baths					
Warm shower baths					
Vapour baths					
For children not above 8 years old, bathing together:					
Cold baths					
Cold shower baths					
Warm baths					
Warm shower baths					
Vapour baths					
BATHS OF ANY HIGHER CLASS. *					
Total					

* Here insert the description of the several baths comprised in this class.

Accounts of the baths and washhouses.—If we except the engineer's account of fuel and stores prescribed by clause 9 (2), the only accounts required to be kept by these byelaws are those of the superintendent and money-takers. The money-takers' accounts are confined to a mere statement of the tickets issued and the sums received by them in a form which can conveniently be checked by the superintendent, who is the real accounting officer of the baths and washhouses. As previously mentioned, the matron is not required to keep any accounts.

Superintendent's daily baths account and summary.—The particulars necessary to enable the superintendent to make up his daily baths account will be obtained by him from the accounts of the several money-takers of the baths, which are to be handed to him for that purpose at the close of the day (clause 4 (3) (4)). The daily totals are to be carried week by week to the summary, and if the account and summary be properly kept, and produced to the council as required by sub-clause (21), the council will be fully informed of the amount of business done at the baths, and be enabled to judge accurately how far the accommodation provided satisfies the requirements of the public. A similar account and summary are to be kept by the superintendent for the washhouses. (See sub-clause (8).) If a suggestion may be offered, it may be questioned whether a column should not be added to the daily baths account for the prices of the several baths. This, in connection with the particulars in the second column ("No. of baths supplied") would enable the amount in the column for "receipts" to be more easily checked.

Classification of baths. In respect of the classification of baths, the accounts of the superintendent and money-takers correspond to the schedule to the Baths and Washhouses Act, 1847 (10 & 11 Vict. c. 61).

Daily account (washhouses).

(8.) He shall accurately keep, in the form herein-after prescribed, a daily account of the number of persons resorting to the public washhouses, of the time and manner of use by such persons of the conveniences for washing and drying clothes and other articles, and also of the sums received from such persons in respect of the use of such conveniences.

Weekly summary.

He shall, on the last day of every week, prepare and enter in the book containing such daily account a summary, in the form herein-after prescribed, of the several particulars shown in such account in respect of each day of such week.

Forms of Account.

Public Washhouses for the Borough or District of .

THE SUPERINTENDENT'S DAILY ACCOUNT.

day the *day of* 18 .

Class and description of conveniences, and particulars of time and manner of use.	Number of persons by whom used.	Receipts.
		£ *s.* *d.*
Washhouses for the Labouring Classes.		
One washing-tub or trough used with a copper or boiler; or		
One pair of washing-tubs or troughs - - - -		
(*a*) With the use of the conveniences for drying:		
For one hour only in the day - - - -		
For two hours together in the day - - -		
For two hours, not together, or for more than two hours in the day - - - - -		
(*b*) Without the use of the conveniences for drying:		
For one hour only in the day - - - -		
For two hours together in the day - - -		
For two hours, not together, or for more than two hours in the day - - - - -		
Conveniences for drying clothes or other articles used alone - - - - - - - - - - -		
Washhouses of any Higher Class. *		
Total - - - - -		

* Here insert the class and description of conveniences, and the particulars of the time and manner of use.

WEEKLY SUMMARY.

For the week ending the day of 18 .

Class and description of conveniences, and particulars of time and manner of use.	Number of persons by whom used.	Receipts.
		£ *s.* *d.*
WASHHOUSES FOR THE LABOURING CLASSES.		
One washing-tub or trough used with a copper or boiler; or		
One pair of washing-tubs or troughs - - - -		
(*a*) With the use of the conveniences for drying:		
For one hour only in the day - - - -		
For two hours together in the day - - -		
For two hours, not together, or for more than two hours in the day - - - - -		
(*b*) Without the use of the conveniences for drying:		
For one hour only in the day - - - -		
For two hours together in the day - - -		
For two hours, not together, or for more than two hours in the day - - - - -		
Conveniences for drying clothes or other articles used alone - - - - - - - - - - -		
WASHHOUSES OF ANY HIGHER CLASS. *		
Total - - - - - -		

* Here insert the class and description of conveniences, and the particulars of the time and manner of use.

Superintendent's daily washhouses account and summary.—The superintendent's daily account of the business done at the washhouses, and the summary of the account, are to be made up from the accounts of the money-takers of the washhouses, and will serve in relation to the washhouses the same purpose as the daily account and summary required to be kept as regards the baths by sub-clause (7). An additional column for the sums charged for the several classes of conveniences might be found useful in checking the daily account.

Classification of the conveniences of the washhouses.—In this case also, the form of account follows the arrangement of the schedule to the Act of 1847.

(9.) He shall accurately keep, in the form herein-after prescribed, a day book, in which he shall enter, from day to day, under the proper dates, the amount of the invoices of all articles supplied for use in or in connection with the public baths and washhouses, and bills for all repairs or other work executed upon or in connection with the premises. Day book

He shall enter and number the invoices and bills in the order in which they are received, and shall file and preserve such invoices and bills in the same order. Invoices and bills.

FORM OF ACCOUNT.

Public Baths and Washhouses for the Borough or District of .

THE SUPERINTENDENT'S DAY BOOK.

For the week ending day the day of 18 .

Date.	Number of invoice or bill.	Name of Tradesman.	Trade.	Amount.
				£ *s.* *d.*
			Total - £	

Day book.—The invoices of all articles supplied for use at the baths and washhouses are to be examined by the superintendent before the articles are placed in store or issued for use (sub-clause (15)). The invoices, and any bills for repairs or other work done on the premises, are then to be entered in the superintendent's day book, which he will produce to the council as required by sub-clause (21). As to the ordering of goods, repairs, etc., see sub-clause (6). When the day book is before them, the council will give the necessary directions for the payment of bills.

Stock and stores account.

(10.) He shall accurately keep, in the form herein-after prescribed, an account of stock and stores, in which he shall enter, from week to week, under the proper dates, the description, quantities, and other particulars of all articles received by him for use or consumption in or in connection with the public baths and washhouses, and also the particulars of the use or consumption of such articles.

Summary.

He shall balance such account quarterly, and shall at the end of every quarter prepare and enter in the book containing such account a summary, in the form herein-after prescribed, of the several particulars shown in such account in respect of each week of such quarter.

Forms of Account.

Public Baths and Washhouses for the Borough or District of .

THE SUPERINTENDENT'S ACCOUNT OF STOCK AND STORES.

For the week ending day the day of 18 .

Articles.	Stock brought forward.	New Stock.	No. of Invoice, or Name of Tradesman supplying.	Totals of Stock brought forward, and New Stock.	Used or Consumed.		Remaining in Store.	Totals Used or Consumed and remaining in Store.	Observations.
					In the Public Baths.	In the Public Washhouses.			

QUARTERLY SUMMARY.

For the quarter ending 18 .

	Week.	*												Week.
Received.	1st - -													1st.
	2nd - -													2nd.
	3rd - -													3rd.
	4th - -													4th.
	5th - -													5th.
	6th - -													6th.
	7th - -													7th.
	8th - -													8th.
	9th - -													9th.
	10th - -													10th.
	11th - -													11th.
	12th - -													12th.
	13th - -													13th.
	Totals - -													Totals.
Used or consumed in the Public Baths.	1st - -													1st.
	2nd - -													2nd.
	3rd - -													3rd.
	4th - -													4th.
	5th - -													5th.
	6th - -													6th.
	7th - -													7th.
	8th - -													8th.
	9th - -													9th.
	10th - -													10th.
	11th - -													11th.
	12th - -													12th.
	13th - -													13th.
	Totals - -													Totals.
Used or consumed in the Public Washhouses.	1st - -													1st.
	2nd - -													2nd.
	3rd - -													3rd.
	4th - -													4th.
	5th - -													5th.
	6th - -													6th.
	7th - -													7th.
	8th - -													8th.
	9th - -													9th.
	10th - -													10th.
	11th - -													11th.
	12th - -													12th.
	13th - -													13th.
	Totals - -													Totals.

* The names of the several articles are to be placed in the appropriate spaces at the head of the several columns.

Account of stock and stores and summary.—One of the duties of the superintendent is to supply estimates of the articles from time to time required for use at the baths and washhouses (sub-clause (14)), and a proper account of stock and stores is necessary to enable him to discharge this duty properly, and to effectively supervise the consumption of stores by the subordinate officers. The entries in the third and fourth columns of this account should be made direct from the invoices, after these have been examined as required by sub-clause (15).

Receipt and payment account.

(11.) He shall accurately keep, in the form herein-after prescribed, an account of receipts and payments, in which he shall enter, from day to day, under the proper dates, the amount and other particulars of all moneys received or paid by him on account of the public baths and washhouses.

He shall balance this account once in every week.

Form of Account.

Public Baths and Washhouses for the Borough or District of .

THE SUPERINTENDENT'S ACCOUNT OF RECEIPTS AND PAYMENTS.

For the week ending day the day of 18 .

Receipts.			Payments.		
Date.	Names and particulars.	Amount.	Date.	Names and particulars.	Amount.
		£ *s. d.*			£ *s. d.*

Balanced this day of 18 .

(Signed) _____
Superintendent.

Account of receipts and payments.—The receipts for which the superintendent will be required to account will usually be confined to the daily takings of the money-takers, and his expenditure, except for small items for which he may have to make immediate payment, will consist of sums which the council have directed him to disburse on account of the baths and washhouses after the bills, etc., have been submitted to them as required by the byelaw (sub-clauses (6) (21)). The account of receipts and payments is to be

balanced weekly. The day of the week in which the balancing is to be effected will ordinarily depend on the day of meeting of the council. The account should be balanced when presented to the council under sub-clause (21).

(12.) He shall, at the end of every day during which the public baths or washhouses may have been open, receive from the several money-takers the sums paid to them by persons resorting to such baths or washhouses. To receive money and tickets,

He shall also receive from the several attendants the tickets delivered to them by the persons resorting to the public baths, and from the several money-takers the tickets delivered to them by persons resorting to the public washhouses.

He shall examine and compare such tickets with the entries in the daily accounts of the several money-takers, and also with the counterfoils in the books from which such tickets may have been detached and issued by the several money-takers, and shall ascertain that the total amount of the sums received by him from each money-taker corresponds with the total amount of the sums entered in his daily account and specified in the several tickets issued during the day by such money-taker. which are to be checked

He shall certify the fact of such examination and comparison having been duly made by inserting his initials in the appropriate column of the daily account of each money-taker, and also by inserting his initials and a memorandum of the date on the counterfoil of the last of the tickets which may have been detached and issued during the day by each money-taker. and certified.

Verification of accounts of money-takers.—This part of the superintendent's duty should be regularly and carefully performed. He should in every case insist on the money and tickets being handed to him daily, together with the accounts of the money-takers, as soon as possible after the hour of closing. It is not absolutely necessary that the examination of the money-takers' accounts should be made the same night; but if this is left till the following morning, it will usually be necessary to issue on that morning different books of tickets to those which were in use during the previous day. All books of tickets not actually in use should be kept by the superintendent under lock and key, and pains should be taken to impress upon the bath attendants that they must on no account deliver up any of the tickets which they receive from bathers except to the superintendent himself.

Payments to treasurer.

(13.) He shall, once at least in every week, pay over all moneys received by him on account of the public baths and washhouses to the treasurer of the Council.

Payment of moneys to treasurer.—The weekly payment to the treasurer of the council of the balance from time to time in the hands of the superintendent is a duty which should be regularly enforced by the council, subject to any directions which they may think proper to give him for the payment of bills, etc., as provided by sub-clause (6).

Estimate of articles required

(14.) He shall submit to the Council, at every ordinary meeting, an estimate of such articles as may be required for use in the public baths and washhouses and shall receive and execute the directions of the Council thereon.

Estimates for stores.—In preparing his estimates of articles required for use at the baths and washhouses, the superintendent will be assisted by the matron (clause 3 (7)), and the engineer (clause 9 (2)).

Goods received to be compared with invoices.

(15.) He shall, as soon as conveniently may be after receiving any articles purchased or procured for use in the public baths and washhouses, and before placing such articles in store, or before issuing such articles for use in the public baths and washhouses, examine and compare such articles with the bills of parcels or invoices severally relating thereto, and, after having proved the accuracy of such bills or invoices, shall authenticate the same with his signature, and submit them to the Council at their next ordinary meeting.

To take charge of and issue stores.

(16.) He shall receive and take charge of all articles purchased or procured for use in the public baths and washhouses or confided to his care by the Council, and shall, from time to time, as occasion may require, issue such articles to the several officers, servants, or persons appointed or employed by the Council.

Issue of stores.—As to the matron's responsibility for a portion of the stores, see clause 3 (2) (6). The engineer is also responsible to the superintendent for certain stores (clause 9 (2)).

Defects to be reported.

(17.) He shall, as often as he may ascertain the existence of any defect in any part of the public baths and washhouses, or in any furniture, fittings, conveniences, or

articles provided for use in or in connection with such baths and washhouses, report such defect, in writing, to the Council at their next ordinary meeting.

Defects in structure, fittings, etc.—The superintendent's daily inspection of the premises under sub-clauses (4) and (5) will afford opportunities of ascertaining any defects of a structural or other nature in connection with the baths and washhouses; but in addition to this it is the duty of the matron and subordinate officers to call attention to such matters of the kind as come under their notice (see clauses 3 (8), 6 (9), 7 (9), 8 (7), 9 (5), 10 (4)).

(18.) He shall take care that the byelaws for the management, use, and regulation of the public baths and washhouses, and of the persons resorting thereto respectively, and for determining the duties of the officers, servants, and others appointed by the Council are duly observed. Observance of byelaws.

(19.) He shall, from time to time, as often as he may ascertain that any breach of any of such byelaws has been committed, report the facts of the case in writing to the Council. Breach of byelaws to be reported.

(20.) He shall keep a book in which he shall punctually and accurately enter all his written reports to the Council. Reports to be entered in a book.

Observance of byelaws.—The superintendent is responsible generally for the due observance of the byelaws throughout the establishment. Any breach of the byelaws that may come to the notice of a male attendant at the baths, or of the engineer, is to be reported by the officer to the superintendent. In like manner, the attendants at the washhouses, and the female attendants of the baths, report to the matron, who makes her own report to the superintendent. (See clauses 3 (9), 6 (10), 7 (10), 8 (8), 9 (8).) It will be on the superintendent's report to the council that proceedings will be taken for the recovery of penalties for infringement of the byelaws: and it is necessary, therefore, that all such reports should be in writing and be carefully preserved. Accordingly, sub-clauses (19) and (20), in effect, require the superintendent to make his report in a book which he is to keep for the purpose. It may be added that the byelaws do not contemplate that he will be invested by the council with the power of suspending or dismissing a subordinate officer for any breach of the byelaws, or other misconduct, but that this power will be exercised, where necessary, by the council, after receiving his report.

(21.) He shall submit to the Council at every ordinary meeting all books and accounts which he may be directed or required to keep, together with all bills, receipts, vouchers or documents relating to such books and accounts, or otherwise to the management of the public baths and washhouses. Books and vouchers to be produced to council.

Inspection of books and documents.

(22.) He shall, upon the application of any member of the Council, allow such member to inspect any book or account which he may be directed or required to keep, or any bill, receipt, voucher, or document relating to any such book or account or otherwise to the management of the public baths and washhouses.

Inspection of books and documents.—This byelaw gives members of the council rather wide powers with regard to the inspection of the books, accounts, and documents, to be kept by or in the hands of the superintendent. While however, any member of the council may call upon him to permit an inspection of his books, etc., by such member, no book or paper, produced for the purposes of the inspection, should be taken out of the superintendent's hands. Any question that may arise on the inspection should be brought before the council at their next ordinary meeting, when, in accordance with the previous clause, the books, accounts, and documents, will be produced to the council.

Penalty.

(23.) For every offence against any of the foregoing byelaws for determining his duties, the superintendent of the public baths and washhouses shall be liable to a penalty of :

Provided, nevertheless, that the justices before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalty.—The maximum penalty authorised is "*five pounds.*"

*Duties of the Matron.**

Duties of matron.

Inspection of premises.

3. The following shall be the duties of the matron of the public baths and washhouses :—

(1.) She shall, from time to time during every day on which the public baths or washhouses may be open, visit and inspect every part of the public washhouses and every part of the public baths appointed or appropriated for the use of women and girls, and children under eight years old, and ascertain and take care that the several washing-tubs or troughs, coppers or boilers, and conveniences for drying are properly and

* A summary of the duties of the matron will be found in the note ("Scheme of duties") on p. 332.

with all reasonable expedition prepared and made ready, from time to time, as often as occasion may require, for the use of persons resorting to the public washhouses, and that the several baths, bath-rooms, dressing-rooms, closets, boxes, or compartments appointed or appropriated for the use of women and girls, and children under eight years old, are properly and with all reasonable expedition prepared and made ready, from time to time as often as occasion may require, for the use of such women, girls and children, and that the supply of clean towels is at all times sufficient for the requirements of such women, girls, and children.

Classification of bathers.—The reference to "women and girls, and children under eight years of age," is in accordance with the terms of Schedule (A.) to the Baths and Washhouses Act, 1846.

(2.) She shall, from time to time during every day on which the public baths may be open, cause all towels and other linen and articles, which may have been used by persons resorting to the public baths, to be collected from the several receptacles appointed for such towels, linen, or articles, or from the several attendants of such baths, and shall at the same time cause each of such attendants to be supplied with a sufficient number of clean towels, linen, or other articles. Issue and collection of towels, etc.

(3.) She shall, on every day after the hour appointed for the closing of the public baths, cause every bath appointed or appropriated for the use of women and girls, and children under eight years old, to be properly emptied and cleansed, and every bath-room, dressing-room, closet, box, or compartment, and every passage, stair, and floor in such part of the public baths as may be appointed or appropriated for the use of women, and girls, and children under eight years old, to be properly cleansed, and all furniture, fittings, and conveniences of such part of the public baths to be properly cleansed and arranged. Baths to be emptied and premises put in order.

(4.) She shall, on every day after the hour appointed for the closing of the public washhouses, cause every washing-tub or trough, and copper or boiler to be properly emptied and cleansed; and every passage, floor, or stair of such washhouses to be properly cleansed, Tubs, etc. to be emptied and premises put in order.

and all furniture, fittings, and conveniences of such washhouses to be properly cleansed and arranged.

Premises to be put in order at the close of each day.—The work is to be done by the attendants under clauses 7 (3), 8 (3).

Washing and drying of towels, etc.

(5.) She shall duly superintend and give the necessary directions concerning the washing and drying of the towels, linen, and other articles provided for the use of persons resorting to the public baths.

To take charge of certain stores.

(6.) She shall, from time to time, receive and take charge of all articles purchased or procured for use in the public baths and washhouses, and delivered to her care by the superintendent.

Estimate of articles required.

(7.) She shall, from time to time, furnish the superintendent with an estimate in writing of such articles as may be required for use in the public baths and washhouses.

Defects to be reported.

(8.) She shall, from time to time, as often as she may ascertain the existence of any defect in any bath, bath-room, dressing-room, closet, box, or compartment appointed or appropriated for the use of women and girls, and children under eight years old, or in any furniture, fittings, or conveniences, provided in or in connection with such bath, bath-room, dressing-room, closet, box, or compartment, or in any washing-tub or trough, copper or boiler, or conveniences for drying, or in any furniture, fittings, or conveniences, provided in connection with such washing-tub or trough, copper or boiler, or conveniences for drying, forthwith report such defect to the superintendent.

Breach of byelaws to be reported.

(9.) She shall, from time to time, as often as she may ascertain that any breach of the byelaws for the management, use, and regulation of the public baths and washhouses and of the persons resorting thereto respectively, and for determining the duties of the officers, servants, and others appointed or employed by the Council, has been committed, report the facts of the case to the superintendent.

Penalty.

(10.) For every offence against any of the foregoing byelaws for determining her duties, the matron of the public

baths and washhouses shall be liable to a penalty of — :

Provided, nevertheless, that the justices before whom any complaint may be made or any proceedings may be taken in respect of any such offence, may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalty.—The maximum penalty may be any sum not exceeding "*five pounds.*"

*Duties of the Money-taker of the Public Baths.**

Duties of money-taker (baths).

4. The following shall be the duties of the money-taker of the public baths:—

To attend punctually.

(1.) He shall attend punctually at the public baths on every week-day at the hour of in the forenoon, and on every Sunday at the hour of in the forenoon.

To give tickets.

(2.) He shall, on receiving from any person resorting to the public baths the sum prescribed as the authorised charge for admission to use any bath, detach from a book to be provided by the Council, and deliver to such person, a ticket whereon shall be stated in addition to such other particulars as the Council may from time to time direct, the class or description of bath to which such person may be entitled to be admitted.

Issue of tickets.—See note on clause 2 of sub-series (i.). From the counterfoils of the tickets, the money-taker will make up his daily account and if, as should be the case, the ticket, when received by the attendant, is given up to the superintendent, and to no other person, an effectual check on the proceedings of the money-taker is secured.

Daily account.

(3.) He shall accurately keep, in the form hereinafter prescribed, a daily account of the number of tickets of admission issued in respect of each of the several classes of baths, and of the sums received by him in respect of the sale of such tickets, and also in respect of the sale of soap to persons resorting to the public baths.

* For a summary of the duties of the money-taker, see the note ("Scheme of duties") on page 332.

Form of Account.

Public Baths for the Borough or District of .

THE MONEY-TAKER'S DAILY ACCOUNT.

day the *day of* 18 .

Class or Description of Baths.	Number of Tickets Sold.	Receipts.	Initials of Superintendent.
		£ *s.* *d.*	
Baths for the Labouring Classes.			
For male persons above 8 years old :—			
Cold baths - - - -			
Cold shower baths - - -			
Warm baths - - - -			
Warm shower baths - -			
Vapour baths - - -			
For female persons above 8 years old :—			
Cold Baths - - - -			
Cold shower baths - - -			
Warm baths - - - -			
Warm shower baths - -			
Vapour baths - - -			
For children not above 8 years old, bathing together :—			
Cold baths - - - -			
Cold shower baths - -			
Warm baths - - - -			
Warm shower baths - -			
Vapour baths - - -			
Baths of any higher Class. *			
Total - - -			

* Here insert the description of the several baths comprised in this class.

SOAP SALES ACCOUNT.

	Number of Tablets or Quantity of Soap Sold.	Price per Tablet or per .	Receipts.
		s. *d.*	£ *s.* *d.*
Total			

(4.) He shall preserve the counterfoils of the several tickets of admission which he may issue during each day to persons resorting to the public baths and shall, on each day, as soon as conveniently may be after the hour appointed for the closing of the public baths, deliver to the superintendent the book or books containing such counterfoils and the book containing the daily account of tickets issued and sums received, and shall at the same time, pay over to the superintendent all moneys which may have been received during such day in respect of the sale of such tickets, and in respect of the sale of soap to persons resorting to the public baths. To hand over counterfoils, money and account to superintendent.

(5.) For every offence against any of the foregoing byelaws for determining his duties, the money-taker of the public baths shall be liable to a penalty of . Penalty.

Provided, nevertheless, that the justices before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think

fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalty.—The amount inserted may be "*five pounds*" or any less sum.

Duties of the Money-taker of the Public Washhouses.

Duties of money-taker (washhouses).

5. The following shall be the duties of the money-taker of the public washhouses :—

To attend punctually.

(1.) He shall punctually attend at the public washhouses on every week-day at the hour of in the forenoon.

To give tickets.

(2.) He shall, on the application of any person resorting to the public washhouses for admission to use any washing-tub or trough, copper or boiler, or conveniences for drying, ascertain and enter the name of such person in a ticket, whereon shall be stated, in addition to such other particulars as the Council may from time to time direct, the class or description of washing-tub or trough, copper or boiler, or conveniences for drying which such person may be admitted to use.

He shall also accurately enter in such ticket the exact time at which the same may be issued, or at which such person may be admitted to use such washing-tub or trough, copper or boiler, or conveniences for drying.

He shall likewise enter in the counterfoil of such ticket the name of such person, and the exact time at which such ticket may be issued or at which such person may be admitted to use such washing tub or trough, copper or boiler, or conveniences for drying, and shall thereupon detach such ticket from the book provided by the Council and deliver the same to such person.

To receive money.

(3.) He shall, before the departure from the public washhouses of any person to whom any ticket of admission may have been issued, and who may have been

admitted to use any washing-tub or trough, copper or boiler, or conveniences for drying, require such person to produce such ticket, and shall thereupon compute and ascertain by reference to the entries in such ticket the time occupied by such person in the use of such washing-tub or trough, copper or boiler, or conveniences for drying.

He shall then demand and receive from such person the sum prescribed as the authorised charge for the use of such washing-tub or trough, copper or boiler, or conveniences for drying.

He shall retain such ticket and shall enter therein the sum received from such person.

He shall make a corresponding entry in the counterfoil and shall also enter therein the time occupied by such person in the use of such washing-tub or trough, copper or boiler, or conveniences for drying.

Issue of tickets.—See note on clauses 2—6 of sub-series (ii.). From the counterfoils, completed as required by clause 3 of that sub-series, the money-taker's daily account will be made up, and if the tickets be duly filled up by the attendants so as to show the time for which each washerwoman should be charged, they will constitute a sufficient check on the correctness of that account.

(4.) He shall preserve, together with the counterfoils, the several tickets of admission which he may issue during each day to persons resorting to the public washhouses, and shall on each day, as soon as conveniently may be after the hour appointed for the closing of the public washhouses, deliver to the superintendent the book or books containing such counterfoils, together with such tickets and the book containing the daily account of tickets issued and sums received, and shall, at the same time, pay over to the superintendent all moneys which may have been received during such day in respect of the sale of such tickets. To deliver counterfoils, money, and account to superintendent.

(5.) He shall accurately keep in the form herein-after prescribed, a daily account of the number of tickets of admission issued in respect of each of the several classes of washing-tubs or troughs, coppers or boilers, or conveniences for drying, and of the sums received by him in respect of the sale of such tickets. Daily account.

FORM OF ACCOUNT.

Public Washhouses for the Borough or District of .

THE MONEY-TAKER'S DAILY ACCOUNT.

day the day of 18 .

Class and Description of Conveniences and Particulars of Time and Manner of Use.	Number of Tickets Sold.	Receipts.	Initials of Superintendent.
WASHHOUSES FOR THE LABOURING CLASSES.		£ *s.* *d.*	
One washing-tub or trough used with a copper or boiler; or			
One pair of washing-tubs or troughs—			
(*a*) With the use of the conveniences for drying:			
For one hour only in the day - - -			
For two hours together in the day - -			
For two hours not together, or for more than two hours in the day - - -			
(*b*) Without the use of the conveniences for drying:			
For one hour only in the day - - -			
For two hours together in the day - -			
For two hours, not together, or for more than two hours in the day - - -			
Conveniences for drying clothes or other articles used alone.			
WASHHOUSES OF ANY HIGHER CLASS.			
*			
Total - - -			

* Here insert the class and description of conveniences, and the particulars of the time and manner of use.

Penalty.

(6.) For every offence against any of the foregoing byelaws for determining his duties, the money-taker of the public washhouses shall be liable to a penalty of :

Provided, nevertheless, that the justices before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalty.—Any sum not exceeding "*five pounds*" may be inserted.

*Duties of a Male Attendant of the Public Baths.**

6. The following shall be the duties of a male attendant of the public baths:— *Duties of male bath-attendant.*

(1.) He shall punctually attend at the public baths on every week-day at the hour of in the forenoon and on every Sunday at the hour of in the forenoon. To attend punctually.

(2.) He shall, on every day before the hour appointed for the opening of the public baths, properly prepare and make ready for the use of persons resorting thereto the several baths of which he may be employed as attendant, and the several bath-rooms, dressing-rooms, closets, boxes, or compartments attached to such baths, together with all furniture, fittings and conveniences provided in or in connection with any such bath, bath-room, dressing-room, closet, box, or compartment; and shall obtain from the matron a sufficient number of clean towels, linen, and other articles for the requirements of the persons admitted to use the several baths of which he may be employed as attendant. To make ready the baths, etc.

(3.) He shall, on every day after the hour appointed for the closing of the public baths, properly empty and cleanse the several baths of which he may be employed as attendant, and properly cleanse the several bath-rooms, dressing-rooms, closets, boxes, or compartments attached to such baths, and properly cleanse and arrange all furniture, fittings, and conveniences provided in or in connection with any such bath, bath-room, dressing-room, closet, box, or compartment. To empty baths and put the premises in order.

* A summary of the duties of a bath attendant is given in the note ("Scheme of duties") on p. 332.

He shall, at the same time, properly cleanse every passage or stair leading to or from, or otherwise adjacent to or in connection with the several baths of which he may be employed as attendant.

To receive tickets,

(4.) He shall, on the application of any person resorting to the public baths for admission to use any bath of which he may be employed as attendant, require such person to produce and deliver to him the ticket which such person may have obtained from the authorised money-taker, and shall not allow any person, who shall not produce to him the requisite ticket, to use any such bath.

and deliver them to superintendent.

He shall carefully preserve the several tickets which may, from time to time during each day, be so delivered to him, and shall, on each day as soon as conveniently may be after the hour appointed for the closing of the public baths, deliver such tickets to the superintendent.

Preservation of tickets by attendant.—As urged elsewhere, it should be impressed upon the several bath attendants that the tickets received by them from bathers are to be given up to the superintendent, and to no other person.

Separate baths to be emptied and made ready again after use.

(5.) He shall, forthwith upon the departure from any bath-room or compartment containing a separate bath, of any person who may have been admitted to use such bath, properly empty and cleanse such bath, and remove from such bath-room or compartment the towel or towels, linen, or other articles, which may have been used by such person, and may require to be removed, and properly and with all reasonable expedition prepare and make ready such bath, and bath-room, or compartment, for the use of any other person applying for admission thereto.

Towels, etc. to be placed in receptacle.

(6.) He shall deposit the several towels, and all linen and other articles which, from time to time during the day, may have been used by persons admitted to the baths of which he is employed as attendant, in the receptacle appointed for such towels, linen, and articles, so that the same may be readily collected and returned to the matron.

(7.) He shall admit persons to use the several baths of which he may be employed as attendant consecutively in the order indicated by the numbers on the several tickets of admission delivered to him by such persons, and not otherwise, unless with the consent of the several parties. Bathers to be admitted in turn.

(8.) He shall not admit any person to use any bath of which he may be employed as attendant, and which may be of a higher class or description than that of the bath for which such person shall have obtained a ticket of admission. Bathers not to be admitted to baths of a higher class than that paid for.

(9.) He shall, from time to time, as often as he may ascertain the existence of any defect in any bath of which he may be employed as attendant, or in any bath-room, dressing-room, closet, box or compartment attached to such bath, or in any furniture, fittings, or conveniences, provided in or in connection with such bath, bath-room, dressing-room, closet, box or compartment, forthwith report such defect to the superintendent. Defects to be reported.

(10.) He shall, from time to time, as often as he may ascertain that any breach of any of the byelaws for the management, use and regulation of the public baths, and of the persons resorting thereto, has been committed, forthwith report the facts of the case to the superintendent. Breach of byelaws to be reported.

(11.) For every offence against any of the foregoing byelaws for determining his duties, every male attendant of the public baths shall be liable to a penalty of : Penalty.

Provided, nevertheless, that the justices before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalty.—A sum not exceeding "*five pounds*" should be inserted.

*Duties of a Female Attendant of the Public Baths.**

Duties of female bath attendant.

7. The following shall be the duties of a female attendant of the public baths :—

To attend punctually.

(1.) She shall punctually attend at the public baths on every week-day at the hour of in the forenoon, and on every Sunday at the hour of in the forenoon.

To make ready the baths, etc.

(2.) She shall, on every day before the hour appointed for the opening of the public baths, properly prepare, and make ready for the use of any women, girls, and children under eight years old resorting thereto, the several baths of which she may be employed as attendant, and the several bath-rooms, dressing-rooms, closets, boxes, or compartments attached to such baths, together with all furniture, fittings, and conveniences provided in or in connection with any such bath, bath-room, dressing-room, closet, box, or compartment, and shall obtain from the matron a sufficient number of clean towels for the requirements of the women, girls, and children under eight years old, admitted to use the several baths of which she may be employed as attendant.

To empty baths and put the premises in order.

(3.) She shall, on every day after the hour appointed for the closing of the public baths, properly empty and cleanse the several baths of which she may be employed as attendant, and properly cleanse the several bath-rooms, dressing-rooms, closets, boxes or compartments attached to such baths, and properly cleanse and arrange all furniture, fittings, and conveniences provided in or in connection with any such bath, bath-room, dressing-room, closet, box, or compartment.

She shall, at the same time, properly cleanse every passage or stair leading to or from, or otherwise adjacent to or in connection with the several baths of which she may be employed as attendant.

To receive tickets,

(4.) She shall, on the application of any woman, girl, or child under eight years old, for admission to use any

* For a summary of a bath attendant's duties see note ("Scheme of duties") p. 332.

bath of which she may be employed as attendant, require such woman, girl, or child to produce and deliver to her the ticket which such woman, girl, or child, may have obtained from the authorised money-taker, and shall not allow any woman, girl, or child, who shall not produce to her the requisite ticket, to use any such bath.

and deliver them to superintendent.

She shall carefully preserve the several tickets which may from time to time during each day be so delivered to her, and shall on each day, as soon as conveniently may be after the hour appointed for the closing of the public baths, deliver such tickets to the superintendent.

Separate baths to be emptied and made ready again after use.

(5.) She shall, forthwith upon the departure from any bath-room or compartment containing a separate bath of any woman, girl, or child under eight years old, who may have been admitted to use such bath, properly empty and cleanse such bath, and remove from such bath-room or compartment the towel or towels, linen, and other articles which may have been used by such woman, girl, or child, and may require to be removed, and properly and with all reasonable expedition prepare and make ready such bath and bath-room or compartment for the use of any other woman, girl, or child under eight years old, applying for admission thereto.

Towels, etc. to be placed in receptacle.

(6.) She shall deposit the several towels, and all linen and other articles which, from time to time during the day, may have been used by women, girls, or children under eight years old, admitted to the baths of which she may be employed as attendant, in the receptacle appointed for such towels, linen, and articles, so that the same may be readily collected and returned to the matron.

Bathers to be admitted in turn.

(7.) She shall admit women, girls, and children under eight years old to use the several baths of which she may be employed as attendant, consecutively in the order indicated by the numbers on the several tickets of admission delivered to her by such women, girls, and children, and not otherwise, unless with the consent of the several parties.

Bathers not to be admitted to baths of

8.) She shall not admit any woman, girl, or child under eight years old to use any bath of which she may be employed as attendant and which may be of a

higher class than that paid for.

higher class or description than that of the bath for which such woman, girl, or child shall have obtained a ticket of admission.

Defects to be reported.

(9.) She shall, from time to time, as often as she may ascertain the existence of any defect in any bath of which she may be employed as attendant, or in any bath-room, dressing-room, closet, box, or compartment attached to such bath, or in any furniture, fittings or conveniences provided in or in connection with such bath, bath-room, dressing-room, closet, box, or compartment, forthwith report such defect to the matron.

Breach of byelaws to be reported.

(10.) She shall, from time to time, as often as she may ascertain that any breach of any of the byelaws for the management, use, and regulation of the public baths, and of the persons resorting thereto, has been committed, forthwith report the facts of the case to the matron.

Penalty.

(11.) For every offence against any of the foregoing byelaws for determining her duties, every female attendant of the public baths shall be liable to a penalty of :

Provided, nevertheless, that the justices before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalty.—The council may insert any sum not exceeding "*five pounds.*"

Duties of an Attendant of the Public Washhouses.

Duties of attendant of washhouses.

8. The following shall be the duties of an attendant of the public washhouses :—

To attend punctually.

(1.) She shall punctually attend at the public washhouses on every week-day at the hour of in the forenoon.

To make ready the tubs, etc.

(2.) She shall, on every day before the hour appointed for the opening of the public washhouses, properly prepare and make ready for the use of persons resorting thereto the several washing-tubs or troughs, coppers

or boilers, and conveniences for drying of which she may be employed as attendant.

(3.) She shall on every day before the hour appointed for the closing of the public washhouses, properly empty and cleanse the several washing-tubs or troughs, coppers or boilers, and conveniences for drying of which she may be employed as attendant, and properly cleanse and arrange all furniture, fittings, and conveniences provided in connection with such washing-tubs or troughs, coppers or boilers, and conveniences for drying. To empty tubs and put the premises in order.

She shall at the same time properly cleanse every part of the floor under or immediately surrounding, and every passage or stair leading to or from, such washing-tubs or troughs, coppers or boilers, and conveniences for drying.

(4.) She shall, before the departure from the public washhouses of any person to whom any ticket of admission may have been issued and who may have been admitted to use any washing-tub or trough, copper or boiler, or conveniences for drying, require such person to produce such ticket, and shall thereupon enter in such ticket, and duly sign, an exact statement of the time at which such person shall have ceased to use such washing-tub or trough, copper or boiler, or conveniences for drying; and shall then return such ticket to such person for subsequent production to the authorised money-taker. To fill up tickets for production to money-taker.

Filling up of tickets by attendant.—See note on clauses 2—6 of subseries (ii.). It is important that the duty of filling up the ticket with the time at which the washerwoman ceases to use the tubs, etc., should be carefully performed, not only because upon this depends the proper charge being made by the money-taker, but also with the view of obviating unseemly disputes with the women as to the sums due from them.

(5.) She shall, forthwith after any person who may have been admitted to use any washing-tub or trough, copper or boiler, or conveniences for drying, of which she may be employed as attendant shall have ceased to use such washing-tub or trough, copper or boiler, or conveniences for drying, properly empty and Tubs, etc. to be emptied and made ready again after use.

cleanse such washing-tub or trough, copper or boiler, and properly and with all reasonable expedition prepare and make ready such washing-tub or trough, copper or boiler, or conveniences for drying for the use of any other person applying for admission to use the same.

Washers not to be permitted to use tubs, etc. of higher class than that paid for.

(6.) She shall not admit any person to use any washing-tub or trough, copper or boiler, or conveniences for drying of which she may be employed as attendant, and which may be of a higher class or description than that of the washing-tub or trough, copper or boiler, or conveniences for drying for which such person shall have obtained a ticket of admission.

Defects to be reported.

(7.) She shall, from time to time, as often as she may ascertain the existence of any defect in any washing-tub or trough, copper or boiler, or conveniences for drying of which she may be employed as attendant, or in any furniture, fittings, or conveniences provided in connection with such washing-tub or trough, copper or boiler, or conveniences for drying, forthwith report such defect to the matron.

Breach of byelaws to be reported.

(8.) She shall, from time to time, as often as she may ascertain that any breach of any of the byelaws for the management, use, and regulation of the public washhouses, and of the persons resorting thereto has been committed, forthwith report the facts of the case to the matron.

Penalty.

(9.) For every offence against any of the foregoing byelaws for determining her duties, every attendant of the public washhouses shall be liable to a penalty of :

Provided, nevertheless, that the justices before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalty.—The maximum penalty which can be imposed is "*five pounds.*"

Duties of the Engineer of the Public Baths and Washhouses. *

Duties of Engineer.

9. The following shall be the duties of the engineer of the public baths and wash-houses:

To inspect machinery and see to supply of fuel, etc.

(1.) He shall, on every day before the hour appointed respectively for the opening of the public baths and washhouses, ascertain that every part of the machinery in connection with the several baths, washing-tubs or troughs, coppers or boilers, and conveniences for drying, is in proper order and ready for use, and that the supply of fuel and other requisites for the efficient working of such machinery is adequate and appropriate for the purpose.

Preparation of machinery.—In the duty of kindling fires and of preparing the machinery for use during the day, the engineer will be assisted by the stokers or firemen, under clause 10 (2) of this sub-series. The superintendent will include the engineer's department in his daily inspection of the premises under clause 2 (4).

Fuel and stores account.

(2.) He shall accurately keep, in the form hereinafter prescribed, an account of fuel and stores, in which he shall enter, from week to week under the proper dates, the description, quantities, and other particulars of all fuel, stores, and other articles received by him for use or consumption in the working and maintenance of the machinery in connection with the several baths, washing tubs or troughs, coppers or boilers, and conveniences for drying, and also the particulars of the use or consumption of such fuel, stores, and other articles.

He shall, on the last day of every week, prepare and enter in the appropriate column of such account an estimate of the quantities of such fuel, stores, and other articles which may be required during the following week for use or consumption in the working and maintenance of the machinery under his charge.

He shall also, on the last day in every week, submit such account, when duly made up, to the superintendent for examination.

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* A summary of the duties of the engineer is given in the note ("Scheme of duties") on p. 332.

Form of Account.

Public Baths and Washhouses for the Borough or District of .

THE ENGINEER'S ACCOUNT OF FUEL AND STORES.

For the week ending the day of 18 .

Articles.	Stock brought forward.	New Stock.	Totals of Stock brought forward, and New Stock.	Used or Consumed.		Remaining in Store.	Totals Used or Consumed and remaining in Store.	Required for next Week.	Observations.
				In the Public Baths.	In the Public Washhouses.				

Engineer's account of fuel and stores.—The particulars given in this account are necessary in order to enable the superintendent to properly make up his weekly account of stock and stores (clause 2 (10)), and to prepare his estimates of stores required for use at the baths and washhouses (clause 2 (14)).

To regulate machinery.

(3.) He shall, during every day on which the public baths or washhouses may be open, carefully and diligently control and regulate the working of the machinery in connection with the several baths, washing-tubs or troughs, coppers or boilers, and conveniences for drying, so that such baths, washing-tubs or troughs, and coppers or boilers, may, from time to time, as often as occasion may require, be duly and promptly furnished with the necessary supplies of water, and that the several conveniences for drying may be maintained in efficient action.

(4.) He shall, from time to time, as often as occasion may require, by careful and regular cleaning or by the careful and regular use of other appropriate means, maintain in good order and in proper repair and efficiency every part of the machinery in connection with the several baths, washing-tubs or troughs, coppers or boilers, and conveniences for drying. To keep machinery in good order.

(5.) He shall, as often as he may ascertain the existence of any defect in any part of the machinery in connection with the several baths, washing-tubs or troughs, coppers or boilers, and conveniences for drying, forthwith report such defect to the superintendent. Defects to be reported.

(6.) He shall on every day after the hour appointed respectively for the closing of the public baths and washhouses, and after the machinery in connection with the several baths, washing-tubs or troughs, coppers or boilers, and conveniences for drying shall have ceased working, cause every part of such machinery to be properly disposed, adjusted, or arranged, and all fires to be properly banked up or extinguished, as the case may require, and all lights to be properly extinguished, and the water supply to be properly turned off; and, generally, shall take such steps as may be necessary, to provide adequately for the security of such machinery, and to prevent accident or damage. At end of day to adjust machinery, bank up fires, etc.

Banking-up of fires and adjustment of machinery at close of day.—It is the duty of the engineer to make ready his department for the daily inspection of the superintendent under clause 2 (5).

(7.) He shall at all times carefully control and regulate the working of the machinery in connection with the several baths, washing-tubs or troughs, coppers or boilers, and conveniences for drying, and the use and application of all fuel and other requisites for the working of such machinery, so as to prevent waste, misuse, or undue consumption of such fuel or other requisites, or waste, misuse, or undue consumption of water or steam. Waste of fuel, water, etc. to be prevented.

(8.) He shall, from time to time, as often as he may ascertain that any breach of the byelaws for deter- Breach of byelaws to be reported.

mining the duties of the several stokers or firemen appointed or employed by the Council has been committed report the facts of the case to the superintendent.

Penalty.

(9.) For every offence against any of the foregoing byelaws for determining his duties, the engineer of the public baths and washhouses shall be liable to a penalty of :

Provided, nevertheless, that the justices before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalty.—The amount inserted may be any sum not exceeding "*five pounds.*"

Duties of stoker or fireman.

Duties of a stoker or fireman of baths and washhouses.—The duties which, under the model byelaws, devolve upon the stokers or firemen of the baths and washhouses are not such as to call for any special observations. The requirements of the several clauses are brifly indicated in the marginal notes.

Duties of a Stoker or Fireman of the Public Baths and Washhouses.

10. The following shall be the duties of a stoker or fireman of the public baths and washhouses :—

To attend punctually.

(1.) He shall punctually attend at the public baths and washhouses on every week-day at the hour of in the forenoon; and at the public baths on every Sunday at the hour of in the forenoon.

To kindle fires and make ready machinery.

(2.) He shall, on every day before the hour appointed respectively for the opening of the public baths and washhouses, carefully and diligently prepare and kindle the fires, and otherwise assist, under the direction of the engineer, in preparing and making ready for use the machinery in connection with the several baths, washing-tubs or troughs, coppers or boilers, and conveniences for drying.

(3.) He shall, during every day on which the public baths or washhouses may be open, carefully and diligently, from time to time as often as occasion may require, feed and maintain the fires so as to prevent smoke, and otherwise assist, under the direction of the engineer, in the working of the machinery in connection with the several baths, washing-tubs or troughs, coppers or boilers, and conveniences for drying. To feed fires and assist in working.

(4.) He shall, as often as he may ascertain the existence of any defect in any furnace or other part of the machinery in connection with the several baths, washing-tubs or troughs, coppers or boilers, and conveniences for drying, forthwith report such defect to the engineer. Defects to be reported.

(5.) He shall, from time to time, as often as occasion may require, assist, under the direction of the engineer, in blowing off and cleaning the several steam boilers, or in using other appropriate means for maintaining in good order and in proper repair and efficiency all such steam boilers and every part of the machinery in connection with the several baths, washing-tubs or troughs, coppers or boilers, and conveniences for drying. To clean boilers, etc.

(6.) He shall, on every day after the hour appointed respectively for the closing of the public baths and washhouses, and after the machinery in connection with the several baths, washing-tubs and troughs, coppers or boilers, and conveniences for drying, shall have ceased working, properly cleanse every passage, floor, or stair in or immediately adjoining that part of the premises in which such machinery is contained. To cleanse floors, etc.

(7.) He shall, on every day after the hour appointed respectively for the closing of the public baths and washhouses, and after the machinery in connection with the several baths, washing-tubs or troughs, coppers or boilers, and conveniences for drying shall have ceased working, carefully bank up or extinguish, as the case may require, the several fires, and carefully rake out or remove from the several grates and ashpits all cinders, ashes, and refuse, and carefully convey such cinders, ashes, and refuse, to the proper receptacle or place of deposit. To bank up fires and remove ashes.

To adjust machinery.

He shall also assist, under the direction of the engineer, in properly disposing, adjusting, or arranging the several parts of the machinery under his charge.

Penalty.

(8.) For every offence against any of the foregoing byelaws for determining his duties, every stoker or fireman of the public baths and washhouses shall be liable to a penalty of :

Provided, nevertheless, that the justices before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalty.—The byelaw may prescribe (as a maximum) a penalty of "*five pounds.*"

SERIES IX.

(v.) Duties of Superintendent, Open Bathing Place.

[Note.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for draft forms on which to submit the byelaws for the Board's preliminary approval, before they are adopted by the local authority.*]

BYELAWS

MADE BY THE* FOR DETERMINING THE DUTIES OF THE SUPERINTENDENT OF THE OPEN BATHING PLACE.

Interpretation.

1. Throughout these byelaws the expression "the Council" means the* .

Duties of superintendent of open bathing place.

2. The following shall be the duties of the superintendent of the open bathing place :—

To attend punctually, and make ready the bathing place.

(1.) He shall attend punctually at the open bathing place at the hour of in the noon on every week-day during the months of ; and, before admitting any person to use such bathing place for the purpose of bathing, shall ascertain and take care that such bathing place, and the furniture, fittings, and conveniences provided in, upon, or in connection with, such bathing places are in all respects made ready for the use of the persons resorting thereto.

To pay moneys to treasurer.

(2.) He shall, once at least in every week, pay over all moneys which he may have received from persons resorting to the open bathing place to the treasurer of the Council.

Duties of the superintendent of the bathing place.—See note, p. 328. It will be noticed that the superintendent of the open bathing place is not required by the byelaws to issue tickets, or to keep accounts in any prescribed form. The receipts from the use of the bathing place may be expected to be of small amount, and it may be thought desirable not to incur the cost of printing tickets, while as regards accounts, no special form of book is necessary for the purposes of clause 2 (4). The regular payment to the treasurer of the

* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or*, "Urban District Council of ," *as the case may be.*

sums from time to time in the hands of the superintendent should, however, be strictly enforced by the council.

Hours for admission of bathers.

(3.) He shall not, on any week-day, during the months of admit any person to use the open bathing place for the purpose of bathing before the hour of in the noon, or after the hour of in the noon.

To keep an account,

(4.) He shall keep a book in which he shall punctually and accurately enter, from day to day under the proper dates, the number of persons admitted on each day to use the open bathing place for the purpose of bathing, and the amount received from such persons in respect of the use of such bathing place.

and submit it to the council.

He shall submit such book to the Council at every ordinary meeting.

To keep life-saving apparatus fit for use.

(5.) He shall cause any life-saving apparatus provided by the Council or other persons, and committed to his charge for use in, upon, or in connection with, the open bathing place, to be so kept as to be ready and fit for use at all times while any person is using such bathing place for the purpose of bathing.

Observance of byelaws.

Life-saving apparatus.—See last paragraph but one of the prefatory memorandum (p. 314).

(6.) He shall take care that the byelaws for the management, use, and regulation of the open bathing place, and of the persons resorting thereto, are duly observed.

He shall, from time to time, as often as he may ascertain that any breach of any of such byelaws has been committed, report the facts of the case in writing to the Council.

Observance of byelaws.—This clause is similar to paragraphs (18) and (19) of the byelaw prescribing the duties of the superintendent of the public baths and washhouses (p. 347).

To keep a report book.

(7.) He shall keep a book in which he shall duly enter all his written reports to the Council, and shall submit such book to the Council, at every ordinary meeting.

Report book.—Compare paragraphs (20) and (21) of the byelaw as to the duties of the superintendent of the baths and washhouses (p. 347).

(8.) For every offence against any of the foregoing byelaws for determining his duties, the superintendent of the open bathing place shall be liable to a penalty of . Penalty.

Provided, nevertheless, that the justices before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalty.—Any sum not exceeding "*five pounds*" may be inserted.

SERIES X.

PLEASURE GROUNDS.

PLEASURE GROUNDS.

MEMORANDUM.

By section 164 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), it is enacted as follows: 38 & 39 Vict. c. 55, s. 164.

"Any Urban Authority may purchase or take on lease, lay out, plant, improve, and maintain lands for the purpose of being used as public walks or pleasure grounds, and may support or contribute to the support of public walks or pleasure grounds provided by any person whomsoever.

"Any Urban Authority may make byelaws for the regulation of any such public walk or pleasure ground, and may by such byelaws provide for the removal from such public walk or pleasure ground of any person infringing any such byelaw by any officer of the Urban Authority or constable."

It will be seen on reference to the model byelaws, which the Board have framed under the above-cited enactment, that the scope of the series is very comprehensive.

Bearing in mind the diversity of local circumstances, the Board have deemed it advisable to embody in the model clauses a set of regulations, which in many cases may, with advantage, be adopted in their entirety, and in other cases where byelaws of more limited range will suffice, may, by the selection of appropriate provisions be readily adapted to the requirements of each district.

As regards a few subjects to which byelaws relating to pleasure grounds sometimes apply, the Board have not thought it expedient to suggest any regulations for general use. Thus, for instance, the model series contains no rules with respect to music in pleasure grounds. Though in every case where the Urban Authority may think it necessary to propose a byelaw with regard to this particular matter it is essential that the requirements of the byelaw should be reasonable and

Music.

definite, its form and effect must obviously be determined with especial reference to the circumstances of each locality.*

JOHN LAMBERT,
Secretary.

Local Government Board,
28th May, 1879.

Authorities competent to adopt the model byelaws.—The model byelaws can be adopted by an urban district council; by a rural district council invested by an order of the Local Government Board under s. 276 of the Public Health Act, 1875, with the powers of an urban district council under s. 164 of the Act; or by a parish council under the section last-mentioned as applied by s. 8 (1) (*d*) of the Local Government Act, 1894. Where application is made by a rural district council for an order under s. 276 of the Act of 1875, conferring upon them powers as to pleasure grounds, the instructions in the Introduction should be observed.

Public walks, etc., in respect of which byelaws can be made.—It is understood to be the practice of the Local Government Board, before considering any proposed byelaws for the regulation of a public walk or pleasure ground, to require evidence that the land is vested in or maintained by the local authority, in their capacity of sanitary authority, for the purpose of a public walk or pleasure ground. A copy of any lease or conveyance of the land to the district council should, therefore, be forwarded to that Board, with the draft of any byelaws which it may be proposed to make under the enactment above mentioned. In the case of land vested in the corporation of a borough in their municipal capacity, and not maintained out of the general district rate, it would seem that power to make byelaws under the above-mentioned section might be obtained if the council, as municipal authority, were to appropriate the land for use for the purposes of a public walk or pleasure ground for so long as a given sum should be paid from the district fund to the borough fund. In the case of a parish council proposing to make byelaws under s. 8 (1) (*d*) of the Local Government Act, 1894, the Local Government Board may be expected to demand evidence that the recreation ground, village green, open space, or public walk, to which the byelaws are to relate, is one "which is for the time being under their control, or to the expense of which they have contributed." The evidence required will depend upon the circumstances of the particular case. Where a lease or conveyance can be produced, it should be forwarded to the Local Government Board for their inspection. If there is any evidence that before the parish council came into existence, the vestry or the churchwardens and overseers exercised control over the ground, the nature and extent of such control should be stated. In the case of land which was allotted to the churchwardens and overseers as a place for exercise and recreation, an extract from the Inclosure Award will be necessary. If the parish council have "contributed to the expense" of the ground, particulars of the "contribution" should be given. The laying out of money in the maintenance or improvement of the ground would seem to be a "contribution" for the purposes of the Act.

Model byelaws as to village greens, etc.—For a model series of byelaws more particularly applicable to the case of a village green, or a recreation ground provided under the Inclosure Acts, see Model Byelaws, vol. ii.

* A form of byelaw on the subject is suggested on p. 392.

Public Health Acts Amendment Act, 1890, and other Acts.—The powers of an urban district council with regard to public walks or pleasure grounds are extended by ss. 44 and 45 of the Public Health Acts Amendment Act, 1890, where Part III. of that Act has been adopted. The former section enables the council, on such days as they think fit (not exceeding twelve days in any one year, nor four consecutive days on any one occasion, and not being Sundays or public holidays), to close to the public any park or pleasure ground provided by them, or any part thereof, and to grant the use of the same, either gratuitously or for payment, to any public charity or institution, or for any agricultural, horticultural, or other show, or any other public purpose, or to use the same for any such show or purpose. On these days the admission to the park or pleasure ground, or such part of it as may be closed to the public under the enactment, may be either with or without payment, as directed by the council, or (with the consent of the council) by the society or persons to whom the use of the park or pleasure ground, or such part thereof, may be granted. The Act, in providing that the urban authority may close the park or pleasure ground on such days as they think fit, not exceeding twelve days in any one year, must be taken to mean a whole day of twenty-four hours, or only a portion of it. If, for example, it were closed for three hours on any one day, this would count as one day. There is, however, under the general law, no power to make byelaws prescribing charges for the use of, or admission to, a pleasure ground, or any part thereof. Where, by a local Act, a corporation was directed to cause a piece of land to be drained and levelled, and kept in proper condition for the purpose of public recreation, the court restrained the corporation by injunction from permitting a cattle fair to be held on such piece of land (*Attorney-General* v. *Southampton Corporation* (1859), 29 L. J. Ch. 282 ; 2 Giff. 363 ; 6 Jur. (N.S.) 36 ; 1 L. T. (N.S.) 155). The words "or any other public purpose," in s. 44 of the Act of 1890, would probably authorise the holding of such a fair. Section 44 of the Act of 1890 also enables the district council to provide and let for hire, or to license any person to let for hire, any pleasure boats on any lake or piece of water that may be comprised in the park or pleasure ground, and to make byelaws for regulating the numbering and naming of the boats, the number of persons to be carried therein, the boathouses and mooring places for the same, and for fixing rates of hire and the qualifications of boatmen, and for securing their good and orderly conduct while in charge of any boat. For clauses on this subject, see Model Byelaws, vol. ii.

The other statutes relating to public parks and recreation grounds are the Towns Improvement Clauses Act, 1847 (10 & 11 Vict. c. 34), s. 135 ; the Recreation Grounds Act, 1859 (22 Vict. c. 26) ; the Public Improvements Act, 1860 (23 & 24 Vict. c. 27) ; and the Town Gardens Protection Act, 1863 (26 & 27 Vict. c. 13). The last-mentioned Act only applies to cases where land, by statute or otherwise, has been vested in trustees or irrevocably set apart for the use and enjoyment of the inhabitants of a square or a street, and it gives no power to deprive the owner of his beneficial interest in property where he has not given it up (*Tulk* v. *Metropolitan Board of Works* (1868), L. R. 3 Q. B. 682 ; 37 L. J. Q. B. 272 ; 19 L. T. 18 ; 16 W. R. 985 ; 32 J. P. 548).

SERIES X.—PLEASURE GROUNDS.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for a draft form on which to submit the byelaws for the Board's preliminary approval, before they are adopted by the local authority.*]

BYELAWS

MADE BY THE * WITH RESPECT TO A PLEASURE GROUND.

1. Throughout these byelaws the expression "the Council" means the * , and the expression "the pleasure ground" means the † .

2. The pleasure ground shall be opened at the hour of , in the forenoon and shall be closed at the hour of in the afternoon of every day during the months of , , , , , and , and shall be opened at the hour of in the forenoon and shall be closed at the hour of in the afternoon of every day during the months of , , , , , and .

Provided always that this byelaw shall not be deemed to require the pleasure ground to be opened and closed at the hours herein-before prescribed on any day when, in pursuance of any statutory provision in that behalf, the Council may close such pleasure ground to the public.

3. A person, other than an officer of the Council, or a person or a servant of a person employed by the Council in or about any work in connection with the laying out, planting, improvement, or maintenance of the pleasure ground, shall not on any day on which the pleasure ground may be open to the public enter the pleasure ground before the time herein-before appointed for the opening thereof, or enter the pleasure ground or remain

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* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or*, "Urban [*or* Rural] District Council of "; *or*, "Parish Council of the Parish of "; *as the case may be.*

† *Insert a description of the pleasure ground to which the byelaws are to apply.*

therein after the time herein-before appointed for the closing thereof.

Hours of opening and closing the pleasure ground.—The hours for opening and closing the ground may be fixed by the local authority without a byelaw ; and if they prefer to reserve power to vary the hours from time to time during the year, it is best to omit clause 2 from the series. The word "herein-before" should then be omitted from clause 3. The form of these clauses makes them applicable where the provisions of s. 44 of the Public Health Acts Amendment Act, 1890, are in force, either by the adoption of Part III. of that Act, or by virtue of s. 8 (1) (*d*), of the Local Government Act, 1894, or where provisions similar to those of s. 44 of the Act of 1890 are in operation by virtue of a local Act.

Regulation of the pleasure ground.—As remarked in the memorandum prefixed to the model series, the scope of the byelaws is very comprehensive, although not more so than the terms of s. 164 of the Public Health Act, 1875, will justify. The clauses are directed generally to the maintenance of order in the pleasure ground ; the prevention therein of damage not covered by the general law, and the prevention of acts calculated to disturb or interrupt persons in the proper use and enjoyment of the ground. Clause 3 makes a necessary provision for the regulation of the pleasure ground (*cf.* Sched. I. (18) of the Parks Regulation Act, 1872 (35 & 36 Vict. c. 15), which applies to all the Royal parks, the management of which is vested in the Commissioners of Her Majesty's Works and Public Buildings). But it will be seen that in this and other instances, persons employed by the council as gardeners, or otherwise in the maintenance or improvement of the ground, are very properly exempted from the operation of the byelaws.

Entrance and exit only by appointed gates.

4. A person shall not enter or quit the pleasure ground otherwise than through some one of the gates, wickets, passages, or openings appointed by the Council as the authorised means of entrance to or egress from the pleasure ground.

Notice boards not to be removed.

5. A person shall not wilfully or improperly remove or displace any board, plate, or tablet, or any support, fastening, or fitting of any board, plate, or tablet used or constructed or adapted to be used for the exhibition of any byelaw or notice, and fixed or set up by the Council in any part of the pleasure ground, or in or on any building or structure therein, or at or near to any one of the appointed means of entrance to or egress from the pleasure ground, or in or on any wall or fence enclosing the pleasure ground.

Protection of notice boards, etc.—Section 306 of the Public Health Act, 1875, provides that any person "who destroys, pulls down, injures or defaces any board on which any byelaw, notice, or other matter is inscribed,

shall, if the same was put up by authority . . . of the local authority, be liable for every such offence to a penalty not exceeding five pounds."

The present clause may be regarded as supplementary to this provision. It is not limited to boards, which are "inscribed" as mentioned in the section; but it only affects the removal or displacement of any board, plate, or tablet. Throughout the byelaws, care has been taken to exclude from the operation of the penalty clause, offences which can be dealt with under the general law; but certain wilful and other acts of interference with, or damage to, property in the pleasure ground, which cannot be so dealt with, are punishable under the byelaws. Section 306 of the Public Health Act, 1875, does not apply to an open space under the control of a parish council, and in such a case the byelaws may refer to damage to notice boards by carelessness or negligence, but not to wilful damage.

Damage to fences, buildings, seats, etc.

6. A person shall not carelessly or negligently deface, injure, or destroy any part of any wall or fence in or enclosing the pleasure ground, or any part of any building, barrier, or railing, or of any fixed or movable seat, or of any other structure or erection in the pleasure ground.

Removal of barriers, seats, or implements, or any part of any structure or erection.

7. A person shall not wilfully, carelessly, or negligently remove or displace any barrier, railing, or post, or any fixed or movable seat, or any part of any building, structure, or erection, or any monument, work of art, ornament, or decoration, or any implement, utensil, apparatus, appliance, or article provided for use or used or adapted to be used in the laying out, planting, improvement, or maintenance of the pleasure ground, or in the care, cultivation, or protection of any tree, sapling, shrub, underwood, gorse, furze, fern, herb, or plant in the pleasure ground.

Damage to fences, works of art, etc.—As regards wilful damage to works or property belonging to a district council, see s. 307 of the Public Health Act, 1875, and with regard, generally, to malicious injury to property, the provisions of the Malicious Injuries to Property Act, 1861 (24 & 25 Vict. c. 97), should be referred to. Of the latter Act, s. 25 deals with the destruction of fences, and s. 29 with destruction of, or damage to, works of art.

Beasts of draught or burden not to be brought into ground

8. A person, other than an officer of the Council, or a person or a servant of a person employed by the Council in or about any work in connection with the laying out, planting, improvement, or maintenance of the pleasure ground, shall not at any time ride, drive, or bring, or cause or suffer to be ridden, driven, or brought into the pleasure ground any beast of draught or burden.

Riding or driving in the pleasure ground.—Where any part of the pleasure ground is laid out as a carriage-road, or as a horse-ride, the following proviso may be added to clause 8:

Provided that the foregoing byelaw shall not be deemed to prohibit the riding or driving of any horse, pony, ass, or mule in any part of the pleasure ground which is for the time being appointed, or intended, or adapted to be used as a horse-ride or carriage-road, subject to such conditions as the Council may prescribe and may be indicated in a notice or notices affixed or set up in a conspicuous position at or near to the several entrances to the pleasure ground. Proviso for riding or driving.

9. A person shall not drive or bring, or cause to be driven or brought into the pleasure ground any bull, ox, cow, heifer, steer, calf, sheep, lamb, hog, pig, or sow, unless, in pursuance of an agreement with the Council, or otherwise in the exercise of any lawful right or privilege, such person may be duly authorised to drive or bring any such animal or to cause any such animal to be driven or brought into the pleasure ground for pasturage or for any other lawful purpose. Depasturage of animals.

Fowls straying into pleasure ground.—In the case of the *Torquay Local Board* v. *Bridle* (1882), 47 J. P. 183, it was considered that a byelaw providing that "a person shall not suffer any fowl, goose, or duck belonging to him to enter or remain in the pleasure grounds," was repugnant to the law of England, and was not warranted by s. 164 of the Public Health Act, 1875. It was accordingly held that the justices were right in refusing to convict under the byelaw a person whose fowls strayed into the ground, there being no fence sufficient to prevent them. This decision, however, does not affect the principle of the model clause 9 as drawn

10. A person, other than an officer of the Council, or a person or a servant of a person employed by the Council in or about any work in connection with the laying out, planting, improvement, or maintenance of the pleasure ground, shall not at any time drive or wheel, or cause or suffer to be driven or wheeled into the pleasure ground any barrow, truck or machine, or any vehicle other than a wheeled chair drawn or propelled by hand, or a perambulator or a chaise drawn or propelled by hand and used solely for the conveyance of a child or children. Prohibition of vehicles, except perambulators and wheeled chairs.

Cycling and driving in the pleasure ground.—The general use of bicycles, tricycles, etc., is causing some local authorities, in laying out pleasure grounds, to provide facilities for the enjoyment of this form of recreation in the grounds. In such cases, a proviso such as the following may be added to clause 10 of the model byelaws. The proviso also permits of other vehicles being driven into the pleasure ground, and as regards such vehicles is required, as well as the suggested proviso to clause 8, where carriages are to be admitted into the grounds.

Proviso for "cycling," driving, etc.

Provided that the foregoing byelaw shall not be deemed to prohibit the driving or wheeling of any bicycle, tricycle, velocipede, or other similar machine, or of any other vehicle, in any part of the pleasure ground which is for the time being appointed or intended or adapted to be used as a cycling track or carriage-road, subject to such conditions as the Council may prescribe and may be indicated in a notice or notices affixed or set up in a conspicuous position at or near to the several entrances to the pleasure ground.

Regulation of bicycles and carriages.—The fact that the roads within the pleasure ground may not be highways suggests the observation that a clause requiring cyclists and the drivers of horse carriages to observe the "rule of the road," and keep off the footpaths, and in the case of cyclists to make use of bells or whistles when necessary to give warning of their approach, might usefully be included in the series, if cycling and driving are allowed in the pleasure ground.

Perambulators and chairs not to be wheeled over flower beds;

11. A person who shall wheel or bring, or cause to be wheeled or brought into the pleasure ground a wheeled chair drawn or propelled by hand, or a perambulator or a chaise drawn or propelled by hand and used solely for the conveyance of a child or children, shall not at any time wheel or station such chair, perambulator, or chaise, or cause or suffer such chair, perambulator, or chaise to be wheeled or stationed over or upon any part of a flower bed, or over or upon any shrub, underwood, gorse, furze, fern, or plant, or any ground in course of preparation or cultivation as a flower bed, or for the reception or growth of any shrub, underwood, gorse, furze, fern, or plant.

nor in any part of grounds where prohibitory notices are set up.

Where, by a notice or notices affixed or set up in some conspicuous position at or near to each of the several entrances to the pleasure ground, the Council may from time to time prohibit the use by any such wheeled chair, perambulator, or chaise of such part or parts of the pleasure ground as shall be defined or described in such notice or notices, a person shall not, at any time while such notice or notices shall continue so affixed or set up, wheel or station any such chair, perambulator, or chaise, or cause or suffer any such chair, perambulator, or chaise to be wheeled or stationed over or upon such part or parts of the pleasure ground.

Posting of bills.

12. A person, other than an officer of the Council, or a person acting in pursuance of their directions in that behalf, shall not affix or post any bill, placard, or notice to or upon

any wall or fence in or enclosing the pleasure ground, or to or upon any tree, or to or upon any part of any building, barrier, or railing, or of any fixed or movable seat, or of any other structure or erection in the pleasure ground.

Posting bills, etc.—For a similar provision affecting the Royal parks, see Sched. I. (13) to the Parks Regulation Act, 1872. The distribution of handbills and circulars may be prohibited by the addition to the clause, at the end, of the words, "or distribute any bill, placard, circular, or notice in the pleasure ground." Distribution of bills.

13. A person, other than an officer of the Council, or a person or a servant of a person employed by the Council in or about any work in connection with the laying out, planting, improvement, or maintenance of the pleasure ground, shall not at any time, in any part of the pleasure ground, remove or disturb any part of the soil of any flower bed, or any soil under or about any tree, sapling, shrub, underwood, gorse, furze, fern, or plant, or any soil in course of preparation or cultivation as a flower bed, or for the reception or growth of any shrub, underwood, gorse, furze, fern, or plant. Unauthorised persons not to dig in the ground,

14. A person, other than an officer of the Council, or a person or a servant of a person employed by the Council in or about any work in connection with the laying out, planting, improvement, or maintenance of the pleasure ground, shall not at any time, in any part of the pleasure ground, walk or run over, or stand, sit, or lie upon any part of any flower bed, or any shrub, underwood, gorse, furze, fern, or plant, or any ground in course of preparation or cultivation as a flower bed, or for the reception or growth of any shrub, underwood, gorse, furze, fern, or plant. nor trample on plants or flower beds

15. A person, other than an officer of the Council, or a person or a servant of a person employed by the Council in or about any work in connection with the laying out, planting, improvement, or maintenance of the pleasure ground, shall not at any time, in any part of the pleasure ground, cut or displace any turf, or uproot or displace any gorse, furze, fern, or plant. nor cut turf, or pull up plants.

Damage to trees, etc.—The limited scope of this clause may be explained by reference to the Malicious Injuries to Property Act, 1861, ss. 20 and 22 of which deal with unlawful and malicious destruction of, or damage to, trees, saplings, shrubs or underwood growing in any park or pleasure ground.

Section 23 of the same Act protects from unlawful and malicious destruction or damage "any plant, root, fruit, or vegetable production growing in any garden"; and s. 52 covers any case of wilful or malicious damage to property not otherwise punishable under the Act. But actual damage must be proved, not merely such as is implied from act of trespass. Thus, persons playing football trespassed into an enclosed grass field and continued the game in defiance of express notice to leave, and were convicted of unlawfully and maliciously doing damage with intent to destroy grass for the food of beasts. It was held that the conviction was wrong, and neither s. 24 nor s. 52 of 24 & 25 Vict. c. 97, applied to damage which was only nominal, and not done with intent to damage (*Eley* v. *Lythe* (1886), 50 J. P. 308). The respondent gathered mushrooms in a field belonging to the appellant; they were of value to the latter, but grew spontaneously, and were entirely uncultivated; no damage was done by the respondent to the grass or hedges. Upon these facts the respondent was not guilty of an offence within s. 52 (*Gardner* v. *Mansbridge* (1887), 19 Q. B. D. 217; 57 L. T. 265; 35 W. R. 809; 51 J. P. 612; 16 Cox C. C. 281). Where two boys were discovered wandering over grass fields for mushrooms, and did actual damage to the amount of sixpence, the court held that there was evidence upon which to sustain a conviction (*R.* v. *Hexham JJ.*, Times, March 14, 1887). Where the appellant, a trespasser, walked across a field (in which the grass was long) although requested not to, and did damage to the value of sixpence, it was held that he was properly convicted (*Gayford* v. *Chouler*, [1898] 1 Q. B. 317; 62 J. P. 165; 14 T. L. R. 166). "A man," said Day, J., "must be taken to intend the natural consequences of his act." (See, further, *Laws* v. *Eltringham* (1881), 8 Q. B. D. 283; 51 L. J. M. C. 13; 46 L. T. 64; 30 W. R. 245; 46 J. P. 230; 15 Cox C. C. 22; *Hamilton* v. *Bone* (1888), 52 J. P. 726.) H. cut off the high blossoms, valued at tenpence, from a chestnut tree growing on B.'s land and overhanging part of the highway to within a few feet of H.'s premises, and claimed the right to do so as he had no other remedy to abate a nuisance caused by the branches of the tree interfering with the light and air to his dwelling, and by boys throwing stones at the blossoms and breaking his glass. H. was properly convicted (*Hamilton* v. *Bone*, *supra*). If the tree had overhung H.'s land there would have been no conviction (*Lemon* v. *Webb*, [1895] A. C. 1; 64 L. J. Ch. 205; 71 L. T. 647; 59 J. P. 564).

With regard to the stealing of trees, saplings, shrubs, or underwood growing in parks and pleasure grounds, the provisions of ss. 32, 33 of the Larceny Act, 1861 (24 & 25 Vict. c. 96) may be referred to; and as to the stealing of "any plant, root, fruit, or vegetable production" growing in any garden or pleasure ground, see s. 36 of the same Act.

Picking flowers, ferns, etc.

16. A person shall not at any time, in any part of the pleasure ground, pluck any bud, blossom, flower, or leaf of any tree, sapling, shrub, underwood, gorse, furze, fern, or plant.

Plucking flowers, etc.—This provision is necessary, as the plucking of flowers or leaves in the pleasure ground is an act which is not necessarily due to any intention to damage the plants, trees, etc., and, in strictness, does not necessarily result in any such damage being done. A similar provision affecting the Royal parks is contained in Sched. I. (13) to the Parks Regulation Act, 1872.

17. A person shall not wilfully, carelessly, or negligently soil or defile any part of any wall or fence in or enclosing the pleasure ground, or any part of any building, barrier, or railing, or of any fixed or movable seat, or of any monument, work of art, ornament, or decoration, or of any other structure or erection in the pleasure ground, or wilfully, carelessly, or negligently throw or deposit any filth, rubbish, or refuse, or cause or suffer any filth, rubbish, or refuse to fall or to be thrown or deposited upon any part of the pleasure ground. Defilement of fences, buildings, etc. Deposit of rubbish.

18. A person shall not wilfully, carelessly, or negligently throw or discharge in the pleasure ground any stone or other missile to the damage or danger of any person. Throwing stones, etc.

Throwing stones, etc.—A similar regulation applies to the Royal parks under Sched. I. to the Parks Regulation Act, 1872.

19. A person shall not climb any wall or fence in or enclosing the pleasure ground, or any tree, or any barrier, railing, or post in the pleasure ground. Climbing.

20. A person shall not bathe, wade, or wash in any lake, pond, stream, or other ornamental water in the pleasure ground, or wilfully, carelessly, or negligently foul or pollute any such water, or take, injure, or destroy, or attempt to take, injure, or destroy, or wilfully disturb any fish in any such water, or wilfully disturb or worry or illtreat any fowl in any such water, or elsewhere in the pleasure ground. Wading and bathing. Pollution of water. Fishing. Disturbing fowl.

21. A person shall not, in any part of the pleasure ground, wilfully displace or disturb, injure or destroy any bird's nest, or wilfully take, injure, or destroy any bird's egg. Bird-nesting.

22. A person shall not, in any part of the pleasure ground, take, injure, or destroy any bird, or spread or use any net, or set or use any snare or other engine, instrument, or means for the taking, injury, or destruction of any bird. Snaring birds.

Chasing game, etc.—Where a byelaw relating to a common provided that "no person shall shoot or chase game or other birds or animals on the common," and a person carried a tame pigeon and a falcon, and let both off and ran after them for half a mile watching the chase, it was held that this was an offence within the byelaw (*Harper* v. *Michael* (1880), 44 J. P. 378).

Dogs.

23. A person shall not cause or suffer any dog belonging to him or in his charge to enter or remain in the pleasure ground, unless such dog be and continue to be under proper control, and be effectually restrained from causing annoyance to any person, and from worrying or disturbing any beast, and from entering any ornamental water, and from injuring or destroying, worrying, or disturbing any fowl in the pleasure ground.

Playing games.

24. A person shall not, except as is herein-after provided, play or take part in any game of football, quoits, bowls, hockey, cricket, or any other game which, by reason of the rules or manner of playing, or for the prevention of damage, danger, or discomfort to any person in the pleasure ground, may necessitate, at any time during the continuance of the game, the exclusive use by the player or players of any space in the pleasure ground:

Provided that where, by a notice or notices, which shall be affixed or set up in some conspicuous position in the pleasure ground, and at or near to each of the principal entrances thereto, the Council may from time to time set apart, for the playing of any such game or games as may be specified in such notice or notices, such space or spaces in the pleasure ground as shall be defined or described in such notice or notices, this byelaw shall not be taken to prohibit any person from playing or taking part in any game or games which may be played in such space or spaces and in accordance with the following regulations:—

Interference with other players.

(i.) Every person resorting to any such space for the purpose of playing or taking part in any such game shall, in making preparation for the playing of such game and in the manner of playing, use reasonable and proper care to prevent undue interference with the reasonable and proper use of such space by any other person engaged in making preparation for playing or in playing therein, or thereafter resorting to such space for the purpose of making preparation for playing or of playing therein:

Over-crowding playground

(ii.) A person resorting to any such space for the purpose of playing or taking part in any such game shall not begin to play at any time when such space is already occupied by such a number of players and in such a manner as to render any addition to the number

of players incompatible with the safe and convenient use of such space by the players already in occupation.

(iii.) Except in any case where the exclusive use of any such space or of any part thereof may have been granted by the Council for the playing of any match, of which the occasion and character shall be such as to render expedient an extension of the time herein-after specified, a player or company of players shall not, in making preparation for playing and in playing any game, use any part of such space for a longer time than *hours* continuously, if, at the expiration of that time any other player or company of players, for whose use no other part of such space or no part of any other space set apart for the purpose may be available, shall make known to such first mentioned player or company of players an intention to use, for the purpose of playing, such part of such space as shall have been previously used by such player or company of players.

Matches.

Monopolising ground.

Playing of games.—The effect of this clause is to prohibit the playing in the pleasure ground of football, cricket, or any other game such as is described in the first paragraph, except in such parts of the pleasure ground as are set apart for the purpose, and subject to the conditions specified in sub-clauses (i.), (ii.), and (iii.). These conditions prevent players unduly interfering with one another's play, or taking up ground when the space provided is already occupied by the full number of players who, with due regard to the character of the games in progress, can safely and conveniently be accommodated for the time being. They also prevent any one set of players from monopolising the ground for an unreasonable time. "*Two hours*" may be inserted in sub-clause (iii.). The clause makes separate provision for matches.

Charges for use of cricket pitches, tennis courts, bowling greens, etc.—It has been questioned whether, by means of a byelaw or otherwise, the local authority can obtain power to make a charge for the use of cricket pitches, tennis courts, bowling greens, etc., in a pleasure ground provided by them. The answer to the question appears to be that, unless specially empowered to do so by a local Act, the authority cannot legally make any charge for the use of the pleasure ground, or any part thereof, except as provided by s. 44 of the Public Health Acts Amendment Act, 1890, as to which, see note, p. 379.

Regulation of golf, football, cricket, and lawn tennis.—Model forms of byelaws prescribing regulations for the playing of golf, football, cricket, and lawn tennis in pleasure grounds are included in Model Byelaws, vol. ii.

Playing of games on Sunday.—A byelaw entirely prohibiting the playing of games in a pleasure ground on Sunday would probably be open to objection as being too comprehensive. The same objection could scarcely be taken to

a clause forbidding the playing on Sunday of such games only as are mentioned in the first paragraph of the Local Government Board's model clause above ; but such prohibitions should not be imposed unless the circumstances distinctly warrant them.

Intrusion of males upon playgrounds set apart for females, etc.—A clause, such as the following, may be added to the series where there are separate playgrounds for girls and infants, or where sanitary conveniences are provided in the pleasure ground.

Improper intrusion.

A male person, other than a boy under the age of *seven years*, shall not enter or use any play-ground, place, room or building, set apart for the use of females, and a female person shall not enter or use any play-ground, place, room or building set apart for the use of males.

Fishing and skating.—Clauses regulating fishing and skating in pleasure grounds are included in Model Byelaws, vol. ii.

Erecting tents, booths, etc.

25. A person, other than an officer of the Council, or a person or a servant of a person employed by the Council in or about any work in connection with the laying out, planting, improvement, or maintenance of the pleasure ground, shall not, except as is herein-after provided, erect any post, rail, fence, pole, tent, booth, stand, building, or other structure in any part of the pleasure ground:

Provided that the foregoing prohibition shall not apply in any case where, upon an application to the Council for permission to erect any post, rail, fence, pole, tent, booth, stand, building, or other structure in any part of the pleasure ground, upon such occasion and for such purpose as shall be specified in such application, the Council may grant, subject to compliance with such conditions as they may prescribe, permission to any person to erect such post, rail, fence, pole, tent, booth, stand, building, or other structure.

Erection of buildings by council.—Byelaw 25 does not apply to persons erecting buildings, etc., for or on behalf of the council. Where premises have been provided for the purpose of being used as public parks or pleasure grounds, it is allowable to erect thereon such buildings as may be conducive to the purpose for which the premises have been acquired. Of such a nature are a conservatory, a museum and a public library, but not a town hall or a school of art (*Att.-Gen.* v. *Sunderland Corporation* (1876), 2 Ch. D. 634 ; 45 L. J. Ch. 839 ; 34 L. T. 921 ; 24 W. R. 991 ; 40 J. P. 564).

Carpet beating.

26. A person shall not, in any part of the pleasure ground, beat, shake, sweep, brush, or cleanse any carpet, drugget, rug, or mat, or any other fabric retaining dust or dirt.

27. A person shall not, in any part of the pleasure ground, hang, spread, or deposit any linen or other fabric for the purpose of drying or bleaching. Drying clothes.

28. A person shall not deliver any public address in any part of the pleasure ground. Public addresses.

Prohibition of preaching, etc.—Where the extent of a pleasure ground is small, or the ground is not so laid out as to afford adequate space for holding meetings without interfering with the general use of the ground by the public, clause 28 of the model series may properly be retained as printed, or even strengthened, so as to prohibit any form of religious service, and of public debate or discussion, in any part of the ground. It may be mentioned that there is no right of the general public to hold meetings on a common known to the law (*De Morgan* v. *Metropolitan Board of Works* (1880), 5 Q. B. D. 155; 49 L. J. M. C. 51; 42 L. T. (N.S.) 228; 28 W. R. 489; 44 J. P. 296). Where by a scheme made under the Metropolitan Commons Act, 1866, and confirmed by the Metropolitan Commons Supplemental Act, 1877, it was provided that a common should be dedicated to the use and recreation of the public as an open and unenclosed space for ever, and the Metropolitan Board of Works were empowered to frame byelaws and regulations for the prevention of nuisances and the preservation of order on the common; and the board made a byelaw prohibiting the delivery of any public speech, lecture, sermon, or address of any kind, except with the written permission of the board first obtained, and upon such portions of the common and at such times as might be by such written permission directed and sanctioned by the board, the court held that such byelaw was valid (*ibid.*). Where, however, circumstances admit of preaching, etc., in the grounds, without interference with the general comfort, a proviso on the following lines may, if desired, be added to clause 28 (*cf.* Sched. I. (8) to the Parks Regulation Act, 1872).

Provided that the foregoing prohibition shall not apply in any case where, upon an application to the Council for permission to [hold any religious service, or hold or take part in any public discussion, or] deliver any public address in the pleasure ground, upon such occasion, or on such days, and at such hours as shall be specified in such application, the Council may grant, subject to compliance with such conditions as they may prescribe, permission to any person to [hold any such service, or hold or take part in any such discussion, or] deliver any such address in such part of the pleasure grounds as they may appoint or set apart for the purpose. Proviso as to preaching, etc.

Prohibition of music.—With regard to the final paragraph of the official memorandum on the model series, the following clause may be suggested for adoption by the council, if they propose to regulate the performance of music in the pleasure ground:

A person shall not play any musical instrument or sing in any part of the pleasure ground. Music and singing.

Provided that the foregoing prohibition shall not apply in any case where, upon an application to the Council for permission to play any musical instrument or sing, upon such occasion, or on such days, and at such hours, as may be specified in such application, the Council may grant, subject to compliance with such conditions as they may prescribe, permission to play such musical instrument, or to sing in the pleasure ground.

Letting or sale of articles or commodities.

29. A person shall not, in any part of the pleasure ground, sell, or offer or expose for sale, or let to hire, or offer or expose for letting to hire any commodity or article, unless, in pursuance of an agreement with the Council, or otherwise in the exercise of any lawful right or privilege, such person may be duly authorised to sell or let to hire in the pleasure ground such commodity or article.

Letting or sale of articles.—Compare with the provision in Sched. I. (7) to the Parks Regulation Act, 1872.

Obstruction of officers, disturbance or interruption.

30. A person shall not, in any part of the pleasure ground, wilfully obstruct, disturb, interrupt, or annoy any other person in the proper use of the pleasure ground, or wilfully obstruct, disturb, or interrupt any officer of the Council in the proper execution of his duty, or any person or servant of any person employed by the Council in the proper execution of any work in connection with the laying out, planting, improvement, or maintenance of the pleasure ground.

Obstruction and disturbance.—For a similar provision affecting the Royal parks, see Sched. I. (16) to the Parks Regulation Act, 1872.

Specific annoyances.—Matters such as smoking in refreshment rooms, the admission of drunken persons, and the use of bad language, occasionally form the subject of proposed byelaws for the regulation of pleasure grounds. In the following notes each of these matters is dealt with separately.

Smoking in prohibited places.—The following clause may be suggested:

Smoking.

A person shall not smoke tobacco or any like substance in any building in the pleasure ground where, by a notice or notices affixed or set up in some conspicuous position, the Council may prohibit smoking in such building.

Drunkenness.

Drunkenness.—A byelaw prohibiting the entrance into the pleasure ground of any person who is in a state of intoxication, or the continuance in the ground of any such person, is probably unnecessary in consequence of the provision in s. 12 of the Licensing Act, 1872 (35 & 36 Vict. c. 94).

Bad language.—The use of profane language in the pleasure ground can be dealt with without a byelaw. As to indecent and obscene language, the following clause is suggested:

A person shall not, in any part of the pleasure ground, use any indecent or obscene language to the annoyance of any other person using the pleasure ground. Indecent or obscene language.

With regard to the qualification, "to the annoyance of any person," see *Strickland* v. *Hayes*, [1896] 1 Q. B. 290; 60 J. P. 164; 65 L. J. M. C. 55; 74 L. T. 137; 44 W. R. 398; 12 T. L. R. 199; 18 Cox C. C. 244 *Kruse* v. *Johnson*, [1898] 2 Q. B. 91; 62 J. P. 469; 67 L. J. Q. B. 782; 78 L. T. 647; 46 W. R. 631; 14 T. L. R. 416.

Betting.—For the prevention of betting in the pleasure ground, the following clause might be considered:

A person shall not frequent or use the pleasure ground for the purpose of betting or wagering, or of agreeing to make any bet or wager. Betting.

31. Every person who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of : Penalty.

Provided nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalty.—Any sum not exceeding "*five pounds*," may be inserted. The second paragraph is added in order to satisfy the requirements of s. 183 of the Public Health Act, 1875.

Recovery of penalties.—As to the recovery of penalties, see s. 251 of the Public Health Act, 1875, and note thereon in Lumley's Public Health, 5th ed., p. 333.

32. Every person who shall infringe any byelaw for the regulation of the pleasure ground may be removed therefrom by any officer of the Council, or by any constable, in any one of the several cases herein-after specified; that is to say,— Removal of offenders from the ground,

(i.) Where the infraction of the byelaw is committed within the view of such officer or constable, and the name and residence of the person infringing the byelaw are unknown to and cannot be readily ascertained by such officer or constable: where name and address not known,

or where such removal may be necessary for the regulation of the ground.

(ii.) Where the infraction of the byelaw is committed within the view of such officer or constable, and, from the nature of such infraction, or from any other fact of which such officer or constable may have knowledge, or of which he may be credibly informed, there may be reasonable ground for belief that the continuance in the pleasure ground of the person infringing the byelaw may result in another infraction of a byelaw, or that the removal of such person from the pleasure ground is otherwise necessary as a security for the proper use and regulation thereof.

Removal of offenders from the pleasure ground.—Section 164 of the Public Health Act, 1875, empowers the council to provide by the byelaws for the removal from the pleasure ground "of any person infringing any such byelaw by any officer of the [council] or constable." Clause 32 of the model series is framed to give effect to this provision. It only deals with persons offending "within the view" of the officer or constable, and the action of the latter is strictly limited to cases which come within sub-clause (i.) or (ii.)

Repeal of Byelaws.

33. From and after the date of the confirmation of these byelaws, the byelaws relating to the pleasure ground which were made by the on the day of in the year one thousand eight hundred and , and which were confirmed by the Local Government Board on the day of in the year one thousand eight hundred and , shall be repealed.

Repeal.—If there are any byelaws in force with respect to the pleasure ground, and the council are desirous of repealing such byelaws, the above clause should be completed and added to the series. If it is not included, it should be stated, for the information of the Local Government Board, whether or not there are any byelaws as to the pleasure ground in force.

SERIES XI.

HORSES, PONIES, ETC. STANDING FOR HIRE.

HORSES, PONIES, ETC. STANDING FOR HIRE.

MEMORANDUM.

By section 172 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), it is enacted as follows: 38 & 39 Vict. c. 55, s. 172.

"Any Urban Authority may license the proprietors, drivers, and conductors of horses, ponies, mules or asses, standing for hire within the district in like manner, and with the like incidents and consequences as in the case of proprietors and drivers of hackney carriages, and may make byelaws for regulating stands and fixing rates of hire, and as to the qualification of such drivers and conductors, and for securing their good and orderly conduct while in charge."

Having regard to the terms of the above-quoted enactment, the Board think that it may here be convenient to append a few observations upon the manner, incidents, and consequences of the licensing of the proprietors, drivers, and conductors of horses, ponies, mules, or asses standing for hire.

Application of 10 & 11 Vict. c. 89.

To these matters the statutory provisions affecting the proprietors and drivers of hackney carriages are rendered applicable.

These provisions will be found in the Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89), and, as amended by section 171 of the Public Health Act, 1875, are in force in every urban district.

The sections of the 10 & 11 Vict. c. 89, which, *mutatis mutandis*, may be considered as having reference, either wholly or in part, to the manner, incidents, and consequences of the licensing of the proprietors, drivers, and conductors of horses, ponies, mules, or asses standing for hire, are as follows, viz.:

Sections 37, 39, 40, 41, 42, 43, 44, 45, 46 (as amended by section 171 of the 38 & 39 Vict. c. 55), 47, 48, 49, 50, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64, 65, 66, and 67.

Licensing of drivers and conductors.

With reference to these enactments it should be noticed that the effect of sections 46 and 47 of the 10 & 11 Vict. c. 89, as

applied to the case of a driver or conductor of a horse, pony, mule, or ass standing for hire is to require every such driver or conductor to obtain a licence from the Urban Authority, and to render liable to penalty any person who acts as a driver or conductor without having obtained such licence or during the time that his licence is suspended, or who lends or parts with his licence except to the proprietor of the horse, pony, mule, or ass. The proprietor will also be liable to a penalty if he employ any person as a driver or conductor who has not obtained a licence or during the time that his licence is suspended.

The 10 & 11 Vict. c. 89, section 50, empowers the Urban Authority, upon a conviction for the second time for any such offence as is therein mentioned, to suspend or revoke the licence; and, in accordance with the provision in the last paragraph of section 171 of the 38 & 39 Vict. c. 55, the licence granted to a driver or conductor will be in force for one year only from the date of the licence, or until the next general licensing meeting, where a day for such meeting is appointed.

Qualification of drivers and conductors.

Although the 38 & 39 Vict. c. 55, section 172, specifies the qualification of drivers and conductors as one of the subjects which may be regulated by byelaws, the Board have deemed it unnecessary to include in the Model Series any clause with respect to this matter.

It will be within the discretion of the Urban Authority to grant or refuse a licence; and before deciding upon any application they will doubtless satisfy themselves as to the qualification of the applicant for employment as a driver or conductor. A licence from the Urban Authority is a qualification which the statutory provisions above noticed recognise as indispensable in the case of every person who acts as a driver or conductor.

JOHN LAMBERT,
Secretary.

Local Government Board,
28th May, 1879.

Authorities competent to adopt the model byelaws.—Byelaws with respect to animals standing for hire, can, under s. 172 of the Public Health Act, 1875, be made only by an urban district council, or a rural district council invested with the powers of an urban district council in the matter, by means of an order of the Local Government Board, under s. 276 of the Act. Where application is made to the Board for such an order, the instructions in the Introduction should be observed.

SERIES XI.—HORSES, PONIES, ETC. STANDING FOR HIRE.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for a draft form on which to submit the byelaws for the Board's preliminary approval, before they are adopted by the local authority.*]

BYELAWS

MADE BY THE* WITH RESPECT TO HORSES, PONIES, MULES, OR ASSES STANDING FOR HIRE IN THE † .

Interpretation of terms.

1. In the construction of these byelaws the following words and expressions shall have the meanings herein-after respectively assigned to them, unless such meanings be repugnant to or inconsistent with the context or subject-matter in which such words or expressions occur; that is to say,— Interpretation of terms.

"Council" means the* :

"Proprietor" means the proprietor of a horse, pony, mule, or ass standing for hire :

"Driver" means the driver of a horse, pony, mule, or ass standing for hire :

"Conductor" means the conductor of a horse, pony, mule, or ass standing for hire :

"Animal" means a horse, pony, mule, or ass standing for hire.

For regulating stands.

2. The several places specified in the following list shall be the authorised stands for such number of animals Fixing stands.

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* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or*, "Urban [*or* Rural] District Council of " ; *as the case may be.*

† "Borough" *or* "Urban [*or* Rural] District"; *as the case may be.*

of such description as shall in each case be specified in such list.

[*Here insert list of stands.*]

In addition to or in substitution for any place or places specified in the foregoing list, such place or places, as may from time to time be appointed by the Council, and may be indicated in each case by a notice board affixed or set up and continued in some conspicuous position at or near to such place, shall be the stand or stands authorised for such number of animals as shall in each case be specified on such notice board.

List of stands.—The list of proposed stands should be inserted before the byelaws are submitted to the Local Government Board for their preliminary approval. The latter part of the clause will enable the district council to alter the list of stands, after the byelaws are confirmed, without making a fresh byelaw. Section 68 of the Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89), which authorises the making of byelaws *inter alia* for "fixing" stands, appears to be inapplicable to animals standing for hire, because s. 172 of the Public Health Act, 1875, specifies the subjects upon which byelaws can be made in respect of such animals. It would seem, however, that the expression "for regulating stands," as used in the latter section, is sufficiently comprehensive to authorise the making of a byelaw fixing stands for the purpose.

Use of stands.

3. Every driver or conductor of an animal, when standing for hire and not actually hired, shall station such animal on some one of the stands appointed or hereafter to be appointed by the Council.

Such driver or conductor shall not station such animal on any stand which, at the time of his arrival at such stand, may be occupied by the full number of animals authorised to occupy such stand.

Such driver or conductor, on arriving at any stand not already occupied by the full number of animals authorised to occupy such stand, shall station such animal upon such stand in such a position that the head of such animal shall be turned in the same direction as the head or heads of the animal or animals then stationed on such stand.

He shall also station such animal in such a manner and in such a position as to prevent any obstruction to the safe and convenient occupation of such stand by any other animal already occupying or thereafter arriving at such stand, or to

the safe and convenient access to such animal, or to the safe and convenient departure of such animal from such stand.

Use of stands.—With regard to the authority for the first paragraph of this clause, see note on clause 2. The remaining paragraphs clearly provide "for regulating stands" for animals for hire. They prevent the overcrowding of the appointed stands, and require that the animals shall be so placed on the stands as to prevent obstruction and conduce to the maintenance of order.

For fixing rates of hire.

4. Every proprietor, driver, or conductor of an animal shall be entitled to demand and take for the hire of such animal the sum prescribed by the following table as the rate of hire for such animal; and in every case the hiring shall be by time, unless before or at the commencement of the hiring it shall have been expressly agreed between such proprietor, driver, or conductor and the person seeking to hire or hiring such animal that such hiring shall be by distance. Fixing rates of hire.

RATES OF HIRE.

By Time.

Periods of Time.	Description of Animal.									
	Horse.		Pony.		Mule.		Ass.			
	With a driver or conductor.	Without a driver or conductor.	With a driver or conductor.	Without a driver or conductor.	With a driver or conductor.	Without a driver or conductor.	With a driver or conductor.	Without a driver or conductor.		
	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.		
If the time does not exceed one hour :—										
For the whole time										
If the time exceeds one hour :—										
For every quarter of an hour of the whole time -										
For any period of less than 15 minutes which is over and above any number of periods of 15 minutes completed - -										

By Distance.

Distance.	Description of Animal.							
	Horse.		Pony.		Mule.		Ass.	
	With a driver or conductor.	Without a driver or conductor.	With a driver or conductor.	Without a driver or conductor.	With a driver or conductor.	Without a driver or conductor.	With a driver or conductor.	Without a driver or conductor
	s. d.	*s. d.*	*s. d.*	*s. d.*	*s. d.*	*s. d.*	*s. d.*	*s. d.*
If the distance does not exceed one mile :—								
For the whole distance - -								
If the distance exceeds one mile :—								
For each mile of the whole distance - -								
For any part of a mile which is over and above any number of miles completed -								

Table of fares.—Where the hiring of horses, ponies, etc., by distance, is limited to short rides along the beach of a seaside town, or otherwise to a course between stated points, the form of the latter part of the table of fares will require modification. As regards each portion of the table, the columns headed "without a driver or conductor" may of course be omitted where it is not customary for the proprietors to let their animals to hire without a driver or conductor. Although s. 68 of the Town Police Clauses Act, 1847, does not apply to animals standing for hire, and the provision as to fixing rates of hire for such animals in s. 172 of the Public Health Act, 1875, is not expressly limited to fares "within the district" (as in the case of hackney carriages, for example), it may be doubted whether the district council have power to fix the rates of hire for animals for journeys extending into an adjoining district, except as regards so much of the way as lies within their own district.

For securing the good and orderly conduct of drivers and conductors while in charge.

Drivers, etc., to be civil.

5. Every driver or conductor of an animal shall at all times conduct himself in an orderly manner, and with civility and propriety towards every person seeking to hire or hiring or being carried upon such animal; and shall comply with every reasonable requirement of any person hiring or being carried upon such animal.

6. A driver or conductor of an animal shall not, by calling out or otherwise, importune any person to hire such animal to the annoyance of such person or of any other person. Touting prohibited.

7. Every driver or conductor of an animal, who shall have agreed or shall have been hired to be in attendance with such animal at an appointed time and place, shall, in pursuance of such agreement or hiring, and unless delayed or prevented by some sufficient cause, punctually attend with such animal at such appointed time and place. Drivers, etc., to keep appointments.

8. A driver or conductor of an animal shall not solict or allow any person to mount such animal for the purpose of being carried for hire at any time when such driver or conductor may know or have reasonable ground for believing that the condition of such animal is such as to expose its rider, or any person traversing or being in any street or public thoroughfare, to risk of injury. Unfit animals not to be used.

9. A driver or conductor of an animal shall not allow any person to mount such animal for the purpose of being carried for hire until such driver or conductor shall have duly fastened or adjusted or otherwise made ready for safe and convenient use the saddle, bridle, and other equipments of such animal, or shall have ascertained, by careful examination, that such saddle, bridle, and other equipments have been duly fastened or adjusted or otherwise made ready for safe and convenient use, and shall in the like manner have ascertained that such equipments are in all respects complete and in good order, so that the rider may be carried with safety and comfort, and so that such animal may be under proper control either by such rider or by such driver or conductor. Saddle and harness to be in good order.

Conduct of drivers and conductors.—Clauses 5—9 of this series apply, with necessary modifications, to the drivers and conductors of animals standing for hire, the same rules as are contained in the clauses numbered 1, 5, 11, 14 and 15 of the model series with respect to hackney carriages (see pp. 272—279). With regard to the use of the expression "conduct" in s. 172 of the Public Health Act, 1875, see the remarks on p. 273 with reference to the same expression as used in s. 68 of the Town Police Clauses Act, 1847.

10. In every case, where the terms of the hiring of an animal may comprise the engagement of the services of a driver or conductor for the whole or any part of any period Where driver, etc. engaged, animal to be

driven carefully,

of time or of any distance, such driver or conductor throughout such time or distance shall carefully drive or conduct such animal, and shall not, without reasonable excuse, withdraw from close attendance upon such animal, or cause or suffer such animal to proceed at such a pace or in such a manner as to impede or preclude the exercise of due control over such animal, or to occasion risk of injury or discomfort to the rider.

and not more than one horse, etc., to be driven at a time.

11. In every case, where the terms of the hiring of a horse, pony, or mule may comprise the engagement of the services of a driver or conductor for the whole or any part of any period of time or of any distance, such driver or conductor throughout such time or distance shall not drive or conduct any other animal in addition to such horse, pony, or mule.

Not more than two asses to be driven.

12. A driver or conductor shall not at any one time drive or conduct a greater number than *two* asses while employed in carrying persons for hire.

Attendance of driver or conductor.—Having regard to the reckless manner in which animals, such as those to which the byelaws apply, are ridden, or, rather, are driven by the persons in charge of them, even where, as may occasionally be the case, the hirers would be satisfied with a more leisurely rate of progression, the provisions of the latter part of clause 10 can scarcely be considered unnecessary, or out of place under the heading of "conduct." The other part of this clause, and the stipulations in clauses 11 and 12 are intended, irrespective of any question of public safety or convenience, to ensure that each rider shall have a due amount of attention in return for the additional payment which (see clause 4) he is presumably required to make in consideration of the attendance of a driver or conductor.

Not more than two horses, etc., or four asses to be taken charge of by one driver.

13. A driver or conductor shall not at any one time drive, conduct, or act in charge of a greater number than *two* horses, ponies, or mules, or a greater number than *four* asses, while such animals may be standing for hire, or while such animals, not being employed in carrying persons for hire, may pass through or be in any street or public thoroughfare on the way to or from any stand, or any stable or premises of the proprietor or proprietors, or any place or places at which the hiring of such animals may commence or terminate.

Attendance on animals when not actually hired.—The object of this clause is to secure that animals waiting upon a stand, or passing through the streets when not actually ridden for hire, shall be under efficient control. The byelaw shows a nice appreciation of the circumstances of the proprietors of animals such as usually stand for hire, in referring to "any stable *or*

premises" of a proprietor. It is to be feared that animals of the kind are frequently housed in such a manner as to make the term "stabling" hardly applicable, and it may be necessary in some of these cases to have recourse to the byelaws which the district council will probably have made under s. 44 of the Public Health Act, 1875, "for the prevention of the keeping of animals on any premises so as to be injurious to health."*

Penalties.

14. Every driver and conductor who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of : Penalties.

Provided nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalty.—Any sum not exceeding "*five pounds*" may be inserted.

Recovery of penalties.—As to the recovery of penalties, see s. 251 of the Public Health Act, 1875, and note thereon in Lumley's Public Health, 5th ed., p. 333.

Repeal of Byelaws.

15. From and after the date of the confirmation of these byelaws, the byelaws relating to which were made on the day of in the year one thousand eight hundred and by the , and were confirmed on the day of in the year one thousand eight hundred and by [one of Her Majesty's principal Secretaries of State] [the Local Government Board] shall be repealed. Repeal.

Repeal of byelaws.—If there are in force in the district any byelaws relating to animals standing for hire which the district council are desirous of repealing, the above clause should be completed and added to the series.

* For the model clauses on this subject, see pp. 41—44.

SERIES XII.

PLEASURE BOATS AND VESSELS.

PLEASURE BOATS AND VESSELS.

MEMORANDUM.

By section 172 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), it is enacted that "any Urban Authority may . . . license the proprietors of pleasure boats and vessels, and the boatmen or other persons in charge thereof, and may make byelaws for regulating the numbering and naming of such boats and vessels and the number of persons to be carried therein, and the mooring places for the same, and for fixing rates of hire and the qualification of such boatmen or other persons in charge, and for securing their good and orderly conduct while in charge." 38 & 39 Vict c. 55, s. 172.

In the exercise of the powers thus conferred upon them, it may be assumed that the Urban Authority will deem it essential to adopt such a system of procedure as may be most conducive to the safety of passengers in pleasure boats and vessels.

Diversity of local circumstances renders it inexpedient to recommend any particular system as suitable for uniform adoption by Urban Authorities, but, after consultation with the Board of Trade, it appears to the Local Government Board that, in relation to the above cited enactment, there are several important considerations to which it is desirable that the attention of Urban Authorities should be specially drawn.

Licensing—Discretion of district council.

In the first place, it should be observed that the grant or refusal of a licence, under section 172 of the 38 & 39 Vict. c. 55, is a matter entirely within the discretion of the Urban Authority.

But the possession of a licence will doubtless be regarded as an indication that the Urban Authority, after careful investigation, have satisfied themselves that the licensed person may properly be allowed to follow his avocation within their district.

Procedure of council.

It is, however, obviously desirable that the Urban Authority should guard against any misconstruction of their action in the

matter of licensing. The limited powers conferred upon them by section 172 of the Public Health Act, 1875, do not enable the Urban Authority to control the proprietors and boatmen to such an extent as would justify the Authority in assuming, by their licence, to warrant the safety of any boat or the competency of any boatman. They should therefore be careful to regulate their method of procedure so that the true significance of their licence may be clearly apparent, and so that it in no way tends to remove from the licensee the responsibilities which would otherwise fall upon him for wrongful acts or defaults, or for the employment of incompetent persons, or for the use of an unsafe or insufficiently equipped boat or vessel.

It may here be convenient to introduce a few remarks in explanation of the powers of the Urban Authority with regard to licensing, and of the principles which should guide them in the exercise of those powers.

Rules as to grant or refusal of licences.

In section 172 of the Public Health Act, 1875, there is no express provision as to the conditions under which a licence may be granted or refused, or as to its duration or revocation. These are apparently matters as to which the Urban Authority may adopt such rules as they may deem most expedient. But in order to obviate misconception of the real character of the licence, it is important that in these rules certain requirements should be regarded as indispensable.

In every case where a person applies for a licence as a proprietor of a pleasure boat or vessel, the Urban Authority may be advised to insist upon the production by the applicant of evidence as to the soundness of the hull of the boat or vessel, as to its stability, as to the completeness and good condition of its equipments, and generally as to its sufficiency for use as a pleasure boat or vessel. He should, at the same time, be required to submit to the Authority a declaration in writing to the effect that, to the best of his knowledge and belief, the evidence produced to them is a true statement of the several particulars to which it relates. The applicant should be made clearly to understand that, in accepting this evidence, the Urban Authority do not assume the responsibility of testing the accuracy of his representations. Moreover, the licence should expressly show that it has been granted upon the following terms, viz. :—

Contents of licence to proprietor.

1. That, at the time of licensing, the licensee undertakes that the hull of the boat or vessel is sound, that the

boat or vessel is stable, that its equipments are complete and in good condition, and that it is generally sufficient for use as a pleasure boat or vessel;

2. That he undertakes that in all these respects the boat or vessel shall be maintained in an equal state of efficiency while it plies or is used for hire;

3. That he undertakes that the boat or vessel shall not carry passengers for hire unless a sufficient number of boatmen or other persons duly licensed by the Urban Authority to take charge of a pleasure boat or vessel be employed in the navigation and management thereof;

4. That if the Urban Authority shall, by notice in writing under the hand of their clerk and addressed to the licensee, signify their intention to revoke the licence, it shall, from and after the date specified in the notice, cease to be of any effect.

Every licence granted by the Urban Authority to the proprietor of a pleasure boat or vessel should specify the number which the boat or vessel is to bear, and also its name. As the number and name are mainly requisite as aids to identification, it is desirable that, in cases such as are mentioned in the proviso to the [third] byelaw of the model series, the name already borne by the boat or vessel should be recognised by the Urban authority as sufficient. In such cases the form of licence may be modified to suit the special circumstances, and if the urban authority deem it expedient to keep a register of licensed pleasure boats and vessels, they will probably find it convenient to distinguish by the entries therein the instances in which the modified licence may have been granted.

Licence to act as boatman.

In every case where a person applies for a licence to act as a boatman or person in charge of a pleasure boat or vessel, the Urban Authority may be recommended to require the applicant to produce satisfactory evidence of good character and of experience in the navigation and management of similar craft. It will also be proper to distinguish in the licence the class of boat or vessel for which the licensee may be regarded as a qualified boatman. In the case of sailing boats or vessels, it is especially important that the licence should clearly indicate that the qualification of the person licensed entitles him to the

responsible charge, or that he is only authorised to act in the capacity of an assistant to the boatman in charge.

In the case of a steamer, no licence which would entitle the holder to take the responsible charge of the boat or vessel should be granted unless the applicant possesses an engineer's certificate from the Board of Trade.

The terms of the licence should in every case show that it is granted subject to the condition that if the Urban Authority shall, by notice in writing under the hand of their clerk and addressed to the licensee, signify their intention to revoke the licence, it shall from and after the date specified in the notice cease to be of any effect.

JOHN LAMBERT,
Secretary.

Local Government Board,
28th May, 1879.

Authorities competent to adopt the model byelaws.—Byelaws under s. 172 of the Public Health Act, 1875, with respect to pleasure boats and vessels, can only be made by an urban district council, or by a rural district council invested by an order of the Local Government Board, under s. 276 of the Act, with the powers of an urban district council under the second paragraph of the former section. Where any application is made to the Local Government Board for such an order, the instructions in the Introduction should be observed.

Licensing of pleasure boats and boatmen.—The second paragraph of s. 172 of the Public Health Act, 1875, which relates to pleasure boats, does not expressly authorise the licensing of such boats. The proprietors of boats may be licensed, and no doubt in practice they are licensed in respect of particular boats; but there appears to be no power under the Act, either directly or indirectly, to compel a proprietor to take out a licence, and no penalty is imposed upon him if he neglects or refuses to do so. With regard to the boatmen or other persons taking charge of pleasure boats, the model byelaws make the possession of a licence from the district council a "qualification," without which they may not ply for hire; but the provision enabling the council to make byelaws "for fixing . . . the qualification" of boatmen and others taking charge of boats, is inapplicable to the proprietors, except in so far as they may themselves act as boatmen, or take charge of boats. A byelaw prohibiting the letting out or plying for hire of pleasure boats of which the proprietors and boatmen in charge were unlicensed, was made by the Corporation of Worcester under s. 23 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), and on proceedings being taken under the byelaw the justices held it to be invalid. A special case was stated for the opinion of the High Court, and the court upheld the decision of the justices (*Byrne* v. *Brown* (1893), 57 J. P. 741 *n*). That the state of the law on this subject is unsatisfactory must be admitted; but in regard to three important matters which periodically engage the attention of the public in connection with boating disasters in different parts of the United Kingdom

the model byelaws go a great way towards giving the district council something like effective control over pleasure boats and vessels plying for hire within their district. These matters are the unseaworthiness, undermanning, and overcrowding of pleasure boats. As regards overcrowding, it will be found that clause No. 4, with or without the addition of a further clause which will be suggested in its proper place, goes as far as is consistent with the avoidance by the district council of undue responsibility for the number of persons carried upon any particular occasion. The seaworthiness and proper equipment of craft, and also the sufficiency and competency of the crews, are indirectly secured by the clauses under the headings referring to the qualification and good conduct of boatmen or other persons in charge of vessels. The observations of the Local Government Board, which are contained in the memorandum above, should, however, receive careful attention.

Vessels to which the model byelaws will apply.—Section 172 of the Public Health Act, 1875, does not define the class of craft to which the expression "pleasure boats and vessels" is intended to apply ; but it would seem that byelaws made by a local authority under the latter part of the section would apply to a vessel on any particular occasion when she might be used for the conveyance of persons for pleasure, even though the ordinary employment of the vessel might not be such as to bring her within the scope of the enactment (*cf. Pringle* v. *Fenwick* (unreported), June, 1875). Provisions affecting the numbering and naming of pleasure boats and vessels, the number of persons to be carried therein, and the qualification and conduct of persons in charge, are made by the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), as regards vessels to which that Act applies. The model byelaws dealing with these matters, however, do not conflict with the statutory provisions referred to.

SERIES XII.—PLEASURE BOATS AND VESSELS.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for a draft form on which to submit the byelaws for the Board's preliminary approval, before they are adopted by the local authority.*]

BYELAWS

MADE BY THE* WITH RESPECT TO PLEASURE BOATS AND VESSELS IN THE † .

Interpretation of terms.

Interpretation.

1. Throughout these byelaws the expression "the Council" means the* .

For regulating the numbering and naming of pleasure boats and vessels.

Numbering of vessels.

2. Every proprietor of a pleasure boat or vessel shall cause a number corresponding in every particular with the number of the licence granted to him in respect of the boat or vessel to be painted, in black oil colour on a white ground, in a conspicuous position on the exterior of each bow within *inches* of the gunwale, and within *inches* of the stem of the boat or vessel, and in figures of not less than *inches* in height and of not less than *inches* in breadth.

He shall cause the number so painted to be kept plainly and distinctly visible and legible at all times while the boat or

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* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or* "Urban [*or* Rural] District Council of "; *as the case may be.*

† *Insert name of borough or urban or rural district, or, if the byelaws are to apply to part only of a rural district,* "that portion of the Rural District of , which comprises the contributory places of "; *as the case may be.*

vessel may ply or be used for hire, and, with this view, shall also cause it to be renewed as often as may be necessary.

Numbering of pleasure boats.—Clause 2 of the model byelaws will only apply to any boat in respect of which the proprietor may have been licensed by the district council under s. 172 of the Public Health Act, 1875. The numbering of the boat is "mainly requisite as an aid to identification." (Memorandum of Local Government Board, p. 411.) In certain cases, vessels may be required under other provisions, to carry a number. Such a provision is contained in s. 7 of the Merchant Shipping Act, 1894, which applies to all British "ships" over fifteen tons burden, employed solely in navigation on the rivers or coasts of the United Kingdom, a "ship," as defined by s. 742 of the Act, being any description of vessel used in navigation which is not propelled by oars. The same Act provides for the lettering and numbering of fishing-boats, as defined by s. 370.

A steamer carrying a choir for gratuitous excursion (*Hedges* v. *Hooker* (1889), 6 Asp. M. C. 386), and a small electric launch on an artificial lake (*Southport (Mayor, etc. of)* v. *Morris*, [1893] 1 Q. B. 359; 62 L. J. M. C. 47; 57 J. P. 84, have been held not to be plying with passengers under the provisions of the Merchant Shipping Acts, now contained in the Merchant Shipping Act, 1894, ss. 271 *et seq.*

"Ply or be used for hire."—These words mean that the boat is at the disposal of any member of the public who may think fit to hire it or who is using it on hire (*cf.* KELLY, C.B., in *Case* v. *Storey*, *ante*, p. 269).

Naming of vessels.

3. Every proprietor of a pleasure boat or vessel shall, except in such cases as are herein-after specified, cause a name corresponding in every particular with the name which may have been assigned to the boat or vessel at the time of the granting of the licence in respect thereof, and which may have been specified in such licence as the name of the boat or vessel, to be painted in a conspicuous position in the interior thereof in letters of not less than *inches* in height, and of not less than *inches* in breadth, and of such a colour as to be clearly distinguishable from the colour of the ground whereon such letters are painted.

If the boat or vessel be of more than *tons* burthen, he shall also cause such name to be painted or marked in a conspicuous position on the exterior of the stern, in letters of not less than *inches* in height, and of not less than *inches* in breadth, and of such a colour as to be clearly distinguishable from the colour of the ground whereon such letters are painted or marked.

He shall cause the name so painted or marked to be kept plainly and distinctly visible and legible at all times while the boat or vessel may ply or be used for hire, and, with this view, shall also cause it to be renewed as often as may be necessary:

Provided that the foregoing requirements shall not apply in any case where the name of the boat or vessel is painted or marked thereon in pursuance of any enactment for the time being in force with respect to merchant shipping, or sea fisheries, or to any river or inland navigation, or in pursuance of any byelaw, regulation, rule, order, or ordinance duly made by any competent authority in the exercise of the powers conferred by any such enactment, or by any law or custom in that behalf.

Naming of pleasure boats.—Like the preceding clause, this byelaw is operative only where the proprietor may be licensed in respect of the particular vessel which is in question. The name to be borne by the boat, being chiefly required as an "aid to identification," any name already borne by the boat, being such as is mentioned in the proviso to this clause, should be "recognised by the district council as sufficient." (Memorandum of Local Government Board, p. 411.) The colour in which the name is to be painted in or upon the vessel is not fixed by the byelaw, but may be any colour contrasting with sufficient distinctness with the colour of the ground. Section 7 of the Merchant Shipping Act, 1894, requires that every British "ship" over fifteen tons burden which is employed solely in navigation on the rivers or coasts of the United Kingdom, shall, subject to the provisions of the section, have her name marked on each of her bows, and her name and port of registry on her stern. A fishing-boat registered, lettered, and numbered as provided by the Act, need not have her name and port of registry marked under this section. (Sub.-s. (2).)

For regulating the number of persons to be carried in pleasure boats and vessels.

Number of persons to be carried.

4. The proprietor or boatman or other person in charge of a pleasure boat or vessel shall not, at any time, cause or suffer to be carried therein a greater number of persons than, consistently with the due observance of such precautions as may be rendered necessary by the state of the weather, wind, or water, the age or sex of the persons to be carried, the limits, whether of time or distance, within or beyond which the boat or vessel may be intended to be used, or any other circumstance or condition in relation to the intended use of the boat or vessel, may be safely carried therein.

Number of persons to be carried.—In connection with this clause, the attention of local authorities should be directed to the observations in the memorandum of the Local Government Board prefixed to the model series. In the memorandum referred to, the Local Government Board lay great stress on the council so regulating their mode of procedure in the matter of licensing as not to relieve the licensee of any part of the responsibility which would otherwise fall upon him for wrongful acts or defaults. These observations are especially applicable to the question of the number of persons which can

safely be carried by a pleasure boat. The question is one which can only be determined with reference to the state of the weather, wind, and water at a given moment. But other considerations affect the question. The age and sex of the persons to be carried, and the time it is proposed to be away from shore or the particular trip proposed to be taken are some of these ; and under the circumstances the district council would obviously be assuming a very serious responsibility if, by the terms of any licence granted by them, or otherwise, they definitely fixed the number of persons which might lawfully be carried at any time in any particular pleasure boat. The model byelaw makes the person in charge of the boat solely responsible in this matter ; and the district council may be advised to adopt this clause in all cases without alteration. In some cases, however, it has been considered advisable to supplement the byelaw by a clause such as the following :

Number carried not to exceed that specified in licence.

4*. Where a person has been duly licensed by the Council as the proprietor of a pleasure boat or vessel subject to the condition that he shall not cause or suffer such pleasure boat or vessel to be used to carry a greater number of persons than may be specified in such licence, such proprietor shall not at any time carry or cause or suffer to be carried therein a greater number of persons than the number specified in such licence.

The effect of this clause is to enable the council to fix, by means of their licence to the proprietor, the *maximum* number of persons which may be carried in the boat under the most favourable conditions as regards weather, etc., and to render the proprietor liable to a penalty if he allows this number to be *exceeded*. The additional clause, however, only applies where the proprietor has been licensed ; and as already mentioned there is no power to enforce the taking out of a licence by the proprietor. The model byelaw No. 4, therefore, is required in connection with the supplementary clause, as well to deal with cases of neglect or refusal to take out a licence as to regulate the number of persons to be carried where the circumstances as regards weather, etc., are something less than the most favourable.

Number of persons which a pleasure boat may be allowed to carry. —The following "Suggestions" for obtaining the number of passengers that pleasure boats should carry are contained in a report made to the Board of Trade by Captain Chas. P. Wilson (11th June, 1895.)

"*Rowing pleasure boats* :

"(1.) Of 25 ft. in length and under $\frac{L \times B \times D \times 3}{75}$ (including crew).

"(2.) Do. do. do. when used as sailing boats. $\frac{L \times B \times D \times 3}{125}$ do.

"*Sailing pleasure vessels* :

"(1.) Fully decked.—Take the area of the deck, and after deducting incumbrances, such as masts, bitts, hatchways, etc., divide by 6. } excluding crew.

Vessels of this class should have substantial bulwarks about 3 ft. in height.

"(2.) Partially decked :

(*a.*)	When $\frac{3}{4}$ths of the whole area of the boat at the height of gunwale is decked and provided with a coaming not less than 6 inches in height.		Divide the area of the space devoted to passengers by 3.
(*b.*)	Do.	do. to $\frac{2}{4}$ths	Do. by 4.
(*c.*)	Do.	do. to $\frac{1}{4}$th	Do. by 5.
(*d.*)	Do.	do. less than $\frac{1}{4}$th	Do. by 6.

" *Open sailing craft* :

(*a.*) For boats of 30 ft. in length and under $\frac{L \times B \times 4}{40}$ (including crew).

(*b.*) Do. over 30 ft. - - $\frac{L \times B \times 4}{30}$ do.

" *Cobles* :

(*a.*) Not less than 12 ft. and not more than 15 ft. in length in the ram. } 6 passengers (including crew).

(*b.*) Not less than 15 ft. and not more than 17 ft. in length in the ram. } 8 do. do.

And for every additional 1 foot in length in the ram 2 additional passengers.

" To obtain area of boats at height of gunwale proceed thus : Measure the extreme length and breadth, then $\frac{L \times B \times 4}{5}$ = area.

" The following plan should be adopted in measuring boats.

" Length.——Extreme.

" Breadth.——Extreme.

" Depth.—To be taken vertically from upper surface of garboard strake, or ram plank, to the level of the upper edge of the gunwale, amidships.

" From 31st October to 30th April the number of passengers should be reduced by one third."

It should be understood that these rules are put forward as suggestions only.

As regards "passenger steamers," as defined by s. 267 of the Merchant Shipping Act, 1894, the number of persons to be carried at any one time is fixed by the certificate issued by the Board of Trade under s. 274 of the Act. If more than this number is carried, the owner or master becomes liable to penalties under s. 283.

Persons knowingly entering the boat after the proper number have entered, will be liable to be convicted as aiding, abetting, counselling, or procuring the breach of this byelaw. (See 62 J. P. 785 ; see also *Benford* v. *Sims*, [1898] 2 Q. B. 641 ; 67 L. J. Q. B. 655 ; 78 L. T. 718 ; 47 W. R. 46 ; 14 T. L. R. 424.)

For regulating the mooring places for pleasure boats and vessels.

Mooring places.

5. The several places described or defined in the list hereunto appended shall be the mooring places appointed for such number of pleasure boats or vessels of such class, description,

or construction as shall in respect of each of such mooring places be specified in such list.

LIST OF MOORING PLACES FOR PLEASURE BOATS OR VESSELS.

Description, Situation, or Limits of the several Mooring Places.	Pleasure Boats or Vessels for which the several Mooring Places are appointed.	
	1. Number.	2. Class, Description, or Construction.

In addition to or in substitution for any of the places so appointed as mooring places for pleasure boats or vessels, such place or places as may from time to time hereafter be appointed by the Council and may be described or defined in a notice or notices painted or marked in legible letters and figures of such a colour as to be clearly distinguishable from the colour of the ground whereon such letters and figures are painted or marked, and affixed or set up and continued in some convenient and conspicuous position at or near to the place or places so appointed, shall be the mooring place or mooring places for such number of pleasure boats or vessels of such class, description, or construction as shall be specified in such notice or notices.

Mooring places.—The list of mooring places should be completed before the byelaws are submitted for the preliminary approval of the Local Government Board. The latter part of the clause will enable the district council, if necessary, to alter the list, after the byelaws are confirmed, without making a fresh byelaw. If the council prefer, all the words of the byelaw before "such place or places" in the last paragraph may be omitted. The council can then fix all the mooring places in manner provided in that paragraph.

Vessels not to be moored at mooring place already fully occupied.

6. A boatman or another person in charge of a pleasure boat or vessel shall not, except in any case where, by reason of stress of weather, or the state of the tide, or any other sufficient cause, the mooring of the boat or vessel elsewhere may be impracticable, or may be attended with danger to life or property, moor such boat or vessel at any mooring place already occupied by the full number of boats or vessels authorised to occupy such mooring place.

Interfering with fastenngs of other vessels.

7. A boatman or another person in charge of a pleasure boat or vessel occupying any mooring place shall not wilfully or improperly, carelessly or negligently cast off, unloose, or cut any rope, or unshackle or break any chain, or detach, remove, displace, injure, or destroy any other fastening whereby any other boat or vessel may be moored at such mooring place, or otherwise wilfully or improperly, carelessly or negligently render insecure the mooring of such other boat or vessel.

Vessels to be moored so as not to injure etc. other vessels.

8. Every boatman or other person in charge of a pleasure boat or vessel, on arriving at a mooring place, shall moor the boat or vessel in such a position and in such a manner as to prevent any risk of injury to any other boat or vessel at such mooring place, or any obstruction to the safe and convenient access to such boat or vessel, or to the safe and convenient embarkation or disembarkation of persons therein or therefrom, or to the safe and convenient mooring or unmooring thereof, or to the safe and convenient departure thereof from such mooring place.

Regulation of mooring places.—The mooring places for the several classes of pleasure boats or vessels being fixed by clause 5, the next three clauses provide for the regulation of such mooring places, so as to prevent any undue interference by boatmen with each other in the use and occupation of the mooring places.

For fixing rates of hire of pleasure boats and vessels.

Fares. In case of exclusive hiring of pleasure boats.

9. Every proprietor or boatman or other person in charge of a pleasure boat or vessel which may be hired by any person for the sole and exclusive use of any persons whom the hirer may require or allow to be carried in such boat or vessel, shall be entitled to demand and take as a fare for the hire of such boat or vessel a sum not exceeding in any case the rate herein-after fixed :

Open rowing boats.

For an open pleasure boat or vessel propelled only by oars and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge and of every boatman or other person employed in the navigation and management of such boat or vessel :—

	s.	*d.*
If the duration of the hiring does not exceed *one hour*—		
For the whole time - - - - -		
If the duration of the hiring exceeds *one hour*—		
For every *30 minutes* of the whole time - -		
For any period of less than *30 minutes* which is over and above any number of periods of *30 minutes* completed - - - - -		

Other open boats.

For an open pleasure boat or vessel propelled by a sail or sails, or by a sail or sails and by oars, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge, and of every boatman or other person employed in the navigation and management of such boat or vessel :—

	s.	*d.*
If the duration of the hiring does not exceed *one hour*—		
For the whole time - - - - - -		
If the duration of the hiring exceeds *one hour*—		
For every *30 minutes* of the whole time - -		
For any period of less than *30 minutes* which is over and above any number of periods of *30 minutes* completed - - - - -		

For an open pleasure boat or vessel propelled by steam, or by steam and a sail or sails, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge, and of every boatman or other person employed in the navigation and management of such boat or vessel :—

	s.	*d.*
If the duration of the hiring does not exceed *one hour*—		
For the whole time - - - - - -		

s. *d.*

If the duration of the hiring exceeds *one hour*—

For every *30 minutes* of the whole time - -

For any period of less than *30 minutes* which is over and above any number of periods of *30 minutes* completed - - - - -

For an open pleasure boat or vessel propelled otherwise than by oars, sails, or steam, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge, and of every boatman or other person employed in the navigation and management of such boat or vessel :—

s. *d.*

If the duration of the hiring does not exceed *one hour*—

For the whole time - - - - - -

If the duration of the hiring exceeds *one hour*—

For every *30 minutes* of the whole time - -

For any period of less than *30 minutes* which is over and above any number of periods of *30 minutes* completed - - - - -

Decked boats.

For a decked pleasure boat or vessel propelled by a sail or sails, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge, and of every boatman or other person employed in the navigation and management of such boat or vessel :—

s. *d.*

If the duration of the hiring does not exceed *one hour*—

For the whole time - - - - - -

If the duration of the hiring exceeds *one hour*—

For every *30 minutes* of the whole time - -

For any period of less than *30 minutes* which is over and above any number of periods of *30 minutes* completed - - - - -

For a decked pleasure boat or vessel propelled by steam, or by steam and a sail or sails, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge, and of every boatman or other person

employed in the navigation and management of such boat or vessel:—

	s.	*d.*
If the duration of the hiring does not exceed *one hour*—		
For the whole time - - - - - -		
If the duration of the hiring exceeds *one hour*—		
For every *30 minutes* of the whole time - -		
For any period of less than *30 minutes* which is over and above any number of periods of *30 minutes* completed - - - - -		

Fares for exclusive hiring of boats.—The model clause fixes the "rates of hire" (by time only) of the following classes of boats and vessels, viz.:

(1.) Open boats:

(*a*) rowing boats;
(*b*) sailing boats (with or without oars as an auxiliary means of propulsion);
(*c*) steam boats (with or without auxiliary sails);
(*d*) other boats.

(2.) Decked boats:

(*a*) sailing boats;
(*b*) steam boats (with or without sails as an auxiliary means of propulsion).

In each case the fare includes the services of such number of boatmen as may be required to navigate and manage the craft. It is probable that, in many cases, a shorter clause might conveniently be substituted for the model byelaw, which is necessarily framed so as to be applicable to the circumstances of any class of boats.

Non-payment of fares.—In the case of "passenger steamers," as defined by s. 267 of the Merchant Shipping Act, 1894, any person who travels or attempts to travel without first paying his fare, and with intent to avoid payment thereof, or who otherwise endeavours to evade payment of any fare lawfully due from him, is liable to a fine of forty shillings, in addition to the amount of the fare payable.

10. Every proprietor or boatman or other person in charge of a pleasure boat or vessel which may ply and be used to carry persons for hire at separate fares, shall be entitled to demand and take as a fare in respect of each of such persons a sum not exceeding in any case the rate herein-after fixed.

Where vessels ply for hire to carry persons at separate fares.

Fares by time.

By time. Open rowing boats.

For every person carried in an open pleasure boat or vessel propelled only by oars, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge and of every boatman or other person employed in the navigation and management of such boat or vessel :—

	s.	*d.*
For a time not exceeding *one hour* - - - -		
For a time exceeding *one hour* and not exceeding *two hours* - - - - - - - - -		
For a time exceeding *two hours*—		
For every *30 minutes* of the whole time - -		
For any period of less than *30 minutes* which is over and above any number of periods of *30 minutes* completed - - - - -		

Other open boats.

For every person carried in an open pleasure boat or vessel propelled by a sail or sails, or by a sail or sails and by oars, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge and of every boatman or other person employed in the navigation and management of such boat or vessel :—

	s.	*d.*
For a time not exceeding *one hour* - - - -		
For a time exceeding *one hour* and not exceeding *two hours* - - - - - - - - -		
For a time exceeding *two hours*—		
For every *30 minutes* of the whole time - -		
For any period of less than *30 minutes* which is over and above any number of periods of *30 minutes* completed - - - - -		

For every person carried in an open pleasure boat or vessel propelled by steam or by steam and a sail or sails, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge and of every boatman or other person employed in the navigation and management of such boat or vessel :—

	s.	*d.*
For a time not exceeding *one hour* - - - -		
For a time exceeding *one hour* and not exceeding *two hours* - - - - - - - - -		

s. *d.*

For a time exceeding *two hours*—

For every *30 minutes* of the whole time - -

For any period of less than *30 minutes* which is over and above any number of periods of *30 minutes* completed - - - - -

For every person carried in an open pleasure boat or vessel propelled otherwise than by oars, sails, or steam, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge and of every boatman or other person employed in the navigation and management of such boat or vessel:—

s. *d.*

For a time not exceeding *one hour* - - - -

For a time exceeding *one hour* and not exceeding *two hours* - - - - - - - -

For a time exceeding *two hours*—

For every *30 minutes* of the whole time - -

For any period of less than *30 minutes* which is over and above any number of periods of *30 minutes* completed - - - - -

Decked boats.

For every person carried in a decked pleasure boat or vessel propelled by a sail or sails, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge and of every boatman or other person employed in the navigation and management of such boat or vessel:—

s. *d.*

For a time not exceeding *one hour* - - - -

For a time exceeding *one hour* and not exceeding *two hours* - - - - - - - -

For a time exceeding *two hours*—

For every *30 minutes* of the whole time - -

For any period of less than *30 minutes* which is over and above any number of periods of *30 minutes* completed - - - - -

For every person carried in a decked pleasure boat or vessel propelled by steam, or by steam and a sail or sails, and carrying

at any one time a number not exceeding persons, inclusive of every boatman or other person in charge and of every boatman or other person employed in the navigation and management of such boat or vessel:—

s. *d.*

For a time not exceeding *one hour* - - - -

For a time exceeding *one hour* and not exceeding *two hours* - - - - - - - -

For a time exceeding *two hours*—

For every *30 minutes* of the whole time - -

For any period of less than *30 minutes* which is over and above any number of periods of *30 minutes* completed - - - - -

Fares by distance.

By distance. Open rowing boats.

For every person carried in an open pleasure boat or vessel propelled only by oars, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge and of every boatman or other person employed in the navigation and management of such boat or vessel:—

s. *d.*

For a distance not exceeding *miles* from the place of embarkation to the place of disembarkation - - - - - - - - -

For a distance exceeding *miles* and not exceeding *miles* from the place of embarkation to the place of disembarkation - - - - -

For a distance exceeding *miles* from the place of embarkation to the place of disembarkation—

For every *half mile* of the whole distance -

For any distance of less than *half a mile* which is over and above any number of *half miles* completed - - - - - - -

Other open boats.

For every person carried in an open pleasure boat or vessel propelled by a sail or sails, or by a sail or sails and by oars, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge and of

every boatman or other person employed in the navigation and management of such boat or vessel :—

	s.	*d.*
For a distance not exceeding *miles* from the place of embarkation to the place of disembarkation -		
For a distance exceeding *miles* and not exceeding *miles* from the place of embarkation to the place of disembarkation - - - - -		
For a distance exceeding *miles* from the place of embarkation to the place of disembarkation—		
For every *half mile* of the whole distance -		
For any distance of less than *half a mile* which is over and above any number of *half miles* completed - - - - - - - -		

For every person carried in an open pleasure boat or vessel propelled by steam, or by steam and a sail or sails, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge and of every boatman or other person employed in the navigation and management of such boat or vessel :—

	s.	*d.*
For a distance not exceeding *miles* from the place of embarkation to the place of disembarkation -		
For a distance exceeding *miles* and not exceeding *miles* from the place of embarkation to the place of disembarkation - - - - -		
For a distance exceeding *miles* from the place of embarkation to the place of disembarkation—		
For every *half mile* of the whole distance -		
For any distance of less than *half a mile* which is over and above any number of *half miles* completed - - - - - - - -		

For every person carried in an open pleasure boat or vessel propelled otherwise than by oars, sails, or steam, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge and of every boatman or other person employed in the navigation and management of such boat or vessel :—

	s.	*d.*
For a distance not exceeding *miles* from the place of embarkation to the place of disembarkation -		

s. *d.*

For a distance exceeding *miles* and not exceeding *miles* from the place of embarkation to the place of disembarkation - - - - - -

For a distance exceeding *miles* from the place of embarkation to the place of disembarkation—

For every *half mile* of the whole distance -

For any distance of less than *half a mile* which is over and above any number of *half miles* completed - - - - - - - - -

Decked boats. For every person carried in a decked pleasure boat or vessel propelled by a sail or sails, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge and of every boatman or other person employed in the navigation and management of such boat or vessel :—

s. *d.*

For a distance not exceeding *miles* from the place of embarkation to the place of disembarkation -

For a distance exceeding *miles* and not exceeding *miles* from the place of embarkation to the place of disembarkation - - - - - -

For a distance exceeding *miles* from the place of embarkation to the place of disembarkation—

For every *half mile* of the whole distance -

For any distance of less than *half a mile* which is over and above any number of *half miles* completed - - - - - - - - -

For every person carried in a decked pleasure boat or vessel propelled by steam, or by steam and a sail or sails, and carrying at any one time a number not exceeding persons, inclusive of every boatman or other person in charge and of every boatman or other person employed in the navigation and management of such boat or vessel :—

s. *d.*

For a distance not exceeding *miles* from the place of embarkation to the place of disembarkation -

For a distance exceeding *miles* and not exceeding *miles* from the place of embarkation to the place of disembarkation - - - - - -

	s.	d.
For a distance exceeding *miles* from the place of embarkation to the place of disembarkation—		
For every *half mile* of the whole distance - -		
For any distance of less than *half a mile* which is over and above any number of *half miles* completed - - - - - - - -		

Fares where vessels ply for hire for separate fares.—As regards the classification of boats, clause 10 follows the same order as the preceding clause. The list of fares, however, includes fares by distance, as well as fares by time. A shorter clause may be substituted, if the circumstances of the traffic admit of it.

For fixing the qualification of the boatmen or other persons in charge of pleasure boats and vessels.

Unlicensed boatmen.

11. A boatman or another person who is not duly licensed by the Council to take charge of a pleasure boat or vessel shall not, for hire, take charge of a pleasure boat or vessel at any time when such boat or vessel may ply or be used for hire.

General qualification of boatmen.—The effect of this clause is to supplement the provisions of s. 172 of the Public Health Act, 1875, with respect to licensing, in the very important respect that it renders it obligatory upon every person who may take charge of a pleasure boat or vessel *for hire* to possess a licence from the district council. The clause will apply to the proprietor, if he acts as boatman, whether he be licensed in his capacity of proprietor or not. Section 92 of the Merchant Shipping Act, 1894, requires that a British "home trade passenger ship," when going to sea from any place in the United Kingdom, shall, except in the case of a seagoing ship being a pleasure yacht (s. 262), be provided with a certificated master, and if a steamship, also with at least one certificated engineer. The Local Government Board recommend that no licence which would entitle the holder to take the responsible charge of a steamer should be granted by the district council unless the applicant possess an engineer's certificate.

Licensed boatmen.

12. A boatman or another person who may have been licensed by the Council to take charge of a pleasure boat or vessel propelled only by oars, or propelled otherwise than by oars, sails, or steam, shall not, for hire, at any time when a pleasure boat or vessel propelled by a sail or sails, or by a sail or sails and by oars, or propelled by steam, or by steam and a sail or sails, may be used to carry any person or persons for hire, take charge of such boat or vessel, or act otherwise than as an assistant to and under the direction and control of the boatman

or boatmen or other person or persons who may have been duly licensed by the Council to take charge of such boat or vessel.

Special qualification conferred by licence in case of boatmen.—In the official memorandum prefixed to the model series, it is suggested that the class of boat or vessel for which a person may be regarded as a qualified boatman should be specified in the licence to act as boatman (if any) granted to him by the district council under s. 172 of the Public Health Act, 1875 ; and that in the case of sailing boats or vessels, the licence should clearly indicate that the qualification of the person licensed entitles him to the responsible charge, or that he is only authorised to act as an assistant to the boatman in charge. As regards steamers, the Local Government Board further point out that no licence which would entitle the holder to take the responsible charge should be granted unless the applicant possess the engineer's certificate of the Board of Trade. The present clause prevents a person taking the responsible charge of a sailing boat (with or without oars as an auxiliary means of propulsion), or of a steam boat (with or without auxiliary sails), if his licence to take responsible charge only applies to a rowing boat, or to a boat not propelled by oars, sails or steam. The byelaw does not prevent such a person acting as an assistant to the boatman in charge. The intention of the clause is obvious.

For securing the good and orderly conduct of the boatmen or other persons in charge of pleasure boats and vessels.

Boatmen to be civil.

13. Every boatman or other person in charge of a pleasure boat or vessel shall, at all times while in charge thereof, conduct himself in an orderly manner and with civility and propriety towards every person seeking to hire or hiring or being carried for hire in such boat or vessel.

As to the good and orderly conduct of boatmen.—As in other cases (*e.g.*, in the series relating to hackney carriages), the Local Government Board appear to construe the expression "good conduct," as used in s. 172 of the Public Health Act, 1875, in a somewhat extended sense. It will be seen that under the heading, "For securing the good and orderly conduct of boatmen," etc., they suggest clauses prohibiting the carrying for hire of drunken persons, the carrying for hire in tempestuous weather of any person except for purposes of rescue, the use of ill-found or undermanned boats, etc. Provisions affecting or tending to secure the good conduct of masters of British ships will be found in Part II. of the Merchant Shipping Act, 1894. Section 220 of this Act declares that if any such "master" (that is, any person, except a pilot, having command or charge of any British ship), by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of the ship, or tending immediately to endanger the life or limb of a person belonging to or on board the ship ; or refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board the ship from immediate danger to life or limb, he shall be guilty of a misdemeanor.

14. A boatman or another person in charge of a pleasure boat or vessel shall not, at any time while in charge thereof, by calling out or otherwise to the annoyance of any person, importune such person to hire or be carried for hire in such boat or vessel. Touting.

Prohibition of touting.—An offence against this byelaw will only be committed where the importunity of the boatman occasions "annoyance" to the person importuned. Without this qualification, the byelaw might be deemed unreasonable.

15. A boatman or another person in charge of a pleasure boat or vessel shall not at any time suffer any drunken or disorderly person to embark therein for the purpose of being carried for hire on a pleasure excursion. Drunken or disorderly person not to be allowed to embark.

Drunkenness and disorderly conduct.—This byelaw does not render a drunken or disorderly boatman liable to a penalty; but if a boatman be drunken or disorderly while in the pursuit of his calling, the district council should be enabled, by the terms of the licence issued by them, to revoke his licence. (See last paragraph of official memorandum, p. 412.) Power to refuse to receive on board of, or, if necessary, to put on shore from, a "home trade passenger steamer," persons who by reason of drunkenness or otherwise are in such a state, or misconduct themselves in such a manner, as to cause annoyance or injury to passengers on board, is conferred on the masters of such steamers by s. 288 of the Merchant Shipping Act, 1894.

16. A boatman or another person in charge of a pleasure boat or vessel shall not, except for the purpose of rescuing any person from a position of actual or threatened peril, suffer any person or persons to embark therein for the purpose of being carried for hire at any time when, by reason of the state of the weather, the navigation and management of the boat or vessel, or the embarkation or disembarkation of such person or persons may be attended with danger. Bad weather

Danger signal.—"It would greatly conduce to the safety of the pleasure-seeking public if all local authorities were to adopt a danger signal, on the exhibition of which pleasure boats should be prohibited from plying for hire. This is already done at certain seaside places, and is found to work satisfactorily." (Report of Captain Wilson to Board of Trade, *ante*, p. 417.)

17. A boatman or another person in charge of a pleasure boat or vessel shall not suffer any person or persons to embark therein for the purpose of being carried for hire, unless the boat or vessel is in every part thoroughly sound and in complete repair, and is properly furnished with all gear, tackle, machinery, apparatus, or appliances, and other requisites for Boats to be sound and properly furnished.

the safe navigation and management thereof, and in the case of a sailing boat or vessel is furnished with a sufficient number of life buoys, but in no case less than two.

Saving for rules under Merchant Shipping Act, 1894.

Provided that nothing in this byelaw shall be deemed to exempt any person from compliance with any requirement of the Merchant Shipping Act, 1894, or any rule, made under or continued in force by that Act, with respect to life-saving appliances.

Seaworthiness, etc., of boats.—In the absence of any power to enforce the provisions with regard to the licensing of pleasure boats, clause No. 17 will be found to give the district council all the power which can legally be exercised by them with a view to securing that such boats are well-found and seaworthy. In effect it prohibits the use of any boat which is not thoroughly sound and fully equipped with all proper gear and tackle ; but it is open to the objection that, except in the case of boatmen owning their own boats, the wrong person, namely, the boatman instead of the proprietor, is struck at. This, however, is unavoidable, having regard to the terms of s. 172 of the Public Health Act, 1875. Under s. 457 of the Merchant Shipping Act, 1894, the sending of an unseaworthy British ship to sea is a misdemeanor.

Life-saving apparatus.—The provision of life-saving appliances in the case of British ships of certain classes forms the subject of rules made by the Board of Trade under the Merchant Shipping (Life-Saving Appliances) Act, 1888, and continued in force by the Merchant Shipping Act, 1894. (See s. 745 (1) (*a*) of the Act of 1894.)

Crew to be adequate.

18. A boatman or another person in charge of a pleasure boat or vessel shall not suffer any person or persons to embark therein for the purpose of being carried for hire, unless there shall be employed in the navigation and management of the boat or vessel such number of competent persons as, consistently with the due observance of such precautions as may be rendered necessary by the size, build, or mode of propulsion of the boat or vessel, the number of persons to be carried therein, the state of the weather, wind, or water, the limits, whether of time or distance, within or beyond which the boat or vessel may be intended to be used, or any other circumstance or condition in relation to the intended use of the boat or vessel, may be requisite for the safe navigation and management thereof.

Number of crew.—In pursuance of the policy of casting on the boatman the responsibility for due precautions being taken for the safety of his boat and passengers, the model byelaws make it a matter of "good conduct" on his part to secure that the boat is furnished with a sufficient crew. It is recognised that a greater or less number of persons will be required to navigate

and manage the same boat, according to the state of the weather, the number of persons to be carried, and so on ; and that the boatman for the time being in charge is the person to decide what amount of assistance he will find necessary under any given circumstances. The following "Suggestions" of Captain Wilson, in his Report to the Board of Trade (*ante* p. 417), may, however, be appended :

"Sailing boats under thirty-four feet should have a crew of not less than two men and over thirty-four feet not less than three men.

"These rules are not applicable to very small or very light boats suitable for one or two people."

Number and name not to be covered up.

19. A boatman or another person in charge of a pleasure boat or vessel shall not, at any time while in charge thereof, wilfully or negligently cause or suffer any number or name which, in pursuance of any byelaw in force with respect to pleasure boats and vessels, may be painted or marked on the boat or vessel to be in any manner or by any means altered, effaced, covered, or concealed.

Number and name of pleasure boat.—In connection with this clause, see clauses Nos. 2 and 3 of the present series.

Boatmen to exercise skill and care.

20. Every boatman or other person in charge of a pleasure boat or vessel shall, at all times while the boat or vessel may be used to carry any person or persons for hire, exercise proper skill and care in the navigation and management thereof, and take all such precautions as may be necessary to prevent danger or discomfort to such person or persons.

Incompetent persons not to be in charge of boats.

21. A boatman or another person in charge of a pleasure boat or vessel shall not cause or suffer any incompetent person to take charge of the boat or vessel, or to assist in the navigation or management thereof, at any time when the boat or vessel may be used to carry any person for hire.

Competency of boatmen in charge.—Though it is of the first importance for securing the safety and comfort of passengers that none but competent men should take charge of pleasure boats and vessels when used for hire, the two clauses above require no comment.

Penalties.

Penalties.

22. Every person who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of , and in the case of a continuing offence to a further penalty of for each day after written notice of the offence from the Council :

Provided nevertheless, that the justices or court before whom

any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalty.—Any sums not exceeding "*five pounds*" and "*forty shillings*" respectively may be inserted. The second paragraph of the clause should be retained in order to comply with the requirements of s. 183 of the Public Health Act, 1875.

Recovery of penalties.—As to the recovery of penalties, see s. 251 of the Public Health Act, 1875, and note thereon in Lumley's Public Health, 5th ed., p. 333.

Saving for rights of Crown.

Saving.

23. Nothing in or done under any of the provisions of the foregoing byelaws shall, in any respect, prejudice or injuriously affect the rights and interests of the Crown in the foreshore below high-water mark.

Rights in the foreshore.—In connection with this clause, see note (p. 307) on clause No. 16 of the model series as to public bathing. Where the foreshore between the lines of high and low-water mark is vested in the Duchy of Cornwall, the clause (together with the heading thereto) should be altered accordingly.

Repeal of Byelaws.

Repeal.

24. From and after the date of the confirmation of these byelaws, the byelaws relating to pleasure boats and vessels which were made on the day of in the year one thousand eight hundred and by the , and were confirmed on the day of in the year one thousand eight hundred and by [one of Her Majesty's principal Secretaries of State] [the Local Government Board] shall be repealed.

Repeal of byelaws.—The above clause should be completed and added to the series, if required. If there are no byelaws as to pleasure boats in force this should be expressly stated.

SERIES XIII.

HOUSES LET IN LODGINGS

OR

OCCUPIED BY MEMBERS OF MORE THAN ONE FAMILY.

HOUSES LET IN LODGINGS OR OCCUPIED BY MEMBERS OF MORE THAN ONE FAMILY.

MEMORANDUM.

By section 90 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), it is enacted as follows:— 38 & 39 Vict. c. 55.

"The Local Government Board may, if they think fit, by notice published in the London Gazette, declare the following enactment to be in force within the district or any part of the district of any Local Authority, and from and after the publication of such notice such Authority shall be empowered to make byelaws for the following matters; (that is to say,)

"(1.) For fixing and from time to time varying the number of persons who may occupy a house or part of a house which is let in lodgings or occupied by members of more than one family, and for the separation of the sexes in a house so let or occupied:

"(2.) For the registration of houses so let or occupied:

"(3.) For the inspection of such houses:

"(4.) For enforcing drainage and the provision of privy accommodation for such houses, and for promoting cleanliness and ventilation in such houses:

"(5.) For the cleansing and lime-washing at stated times of the premises, and for the paving of the courts and courtyards thereof:

"(6.) For the giving of notices and the taking of precautions in case of any infectious disease.

"This section shall not apply to common lodging-houses within the provisions of this Act relating to common lodging-houses."

Section 8 of the Housing of the Working Classes Act, 1885 (48 & 49 Vict. c. 72), empowers the council of any borough or

of any urban or rural district to make byelaws as to the matters specified in the above section, without any declaration such as is mentioned therein.

Application of byelaws.

In the absence of any express limitation of their scope, byelaws such as are authorised by the above-cited enactment would apply to every house or part of a house which, not being a common lodging-house, is let in lodgings or occupied by members of more than one family. But in many districts where the enactment is in force there are to be found houses which, though let in lodgings or occupied by members of more than one family, are of such a character as to render it inexpedient, if not absolutely unnecessary, to bring them within the range of byelaws having for their primary object the regulation of premises where neglect of sanitary requirements might otherwise ensue. The Board have, therefore, thought it desirable to suggest in the model series of byelaws a clause providing for the exemption of lodging-houses as to which it may reasonably inferred that such supervision as elsewhere a Local Authority alone can efficiently exercise, will, in fact, be exercised by the lodgers themselves. In illustration of the view which has induced them to propose this exemption, the Board may refer to the observations of the judges of the Common Pleas Division who decided the case of Langdon, Appellant *v.* Broadbent, Respondent (42 J. P. 56).

Exemption clause.

The exemption clause, it will be seen, consists of two sections, of which section (*a*) relates to unfurnished, and section (*b*) to furnished lodgings. The clause confers exemption if the rent of each lodger exceeds a certain minimum. It will, of course, rest with the Local Authority when framing byelaws upon the basis of the model series to determine what limits of rent the circumstances of their district may render it desirable to prescribe.

Variation of number of occupants.

It will be observed that the Local Authority are empowered to make byelaws for fixing and "from time to time varying" the number of occupants of the houses to which the provisions of section 90 of the 38 & 39 Vict. c. 55 apply. The Local Authority may also make byelaws "for the separation of the sexes" in such houses.

In the model clauses the Board have deemed it inexpedient to provide for a variation of the number of occupants. The Board have thought it preferable to suggest a few simple rules whereby the number of occupants of rooms used for sleeping

may be determined with reference to a minimum allowance of free air-space for each occupant. They have assumed that before registration or at some other convenient opportunity, the Surveyor or Inspector of Nuisances will be instructed by the Local Authority to ascertain the dimensions of the several rooms in each house, and that when the maximum number of inmates has been fixed by the application of the rules embodied in the model clauses, the Local Authority will supply the landlord and lodgers with tickets or placards which may be affixed to the walls or doors or in some other suitable position, and which will show precisely how many inmates may be received in each sleeping apartment.

Procedure before registration of lodging-houses.

If in any case a Local Authority who may have adopted the model byelaws for fixing the number of occupants should afterwards find that it is practicable to enforce an increased allowance of free air-space, the Board will gladly facilitate the confirmation of new byelaws for that purpose.

The omission from the model clauses of provisions for the separation of the sexes is due to the doubt which the Board have entertained as to how far this desirable object can be practically attained in view of the ordinary conditions of life in lodgings of the poorer class. Where, however, the Local Authority are satisfied that a rule on this subject may be enforced without hardship, as, for instance, in cases where it is found that individual holdings in the lodging-houses of a district generally comprise two or more rooms, the Board will readily co-operate with the Authority in framing a byelaw to provide for the separation of the sexes.

Separation of the sexes.

In explanation of the model clause with respect to registration, the Board have to point out that, while in the case of common lodging-houses it is expressly provided by section 77 of the 38 & 39 Vict. c. 55, that a person shall not keep such a house or receive a lodger therein unless the house is registered, there is no similar enactment with regard to the lodging-houses to which section 90 has reference.

Registration of lodging-houses.

The Board have, therefore, considered that, in relation to the latter class of houses, the chief practical purpose that a byelaw requiring registration can effect is to aid the Local Authority by rendering it the duty of the landlord to supply information which may facilitate their subsequent supervision of his premises. Though the landlord who neglects this duty may become liable to a penalty, the Local Authority will,

doubtless, find that the reports of the officers, after inspection, will readily supply the particulars necessary for the accurate keeping and correction of the register.

Drainage of such houses.

The Board, in view of the varying circumstances of the districts to which byelaws under section 90 of the 38 & 39 Vict. c. 55 may be applied, have been unable to suggest for general use any clauses for enforcing drainage. They think that in practice it will be found that the powers which Local Authorities derive from the statutory provisions on this subject will be sufficient to enable them to enforce drainage without recourse to byelaws.

General observations.

Generally, with respect to all the clauses comprised in the accompanying model series, the Board have to observe that the scope of these clauses has been strictly limited to the various matters for which byelaws are authorised. But it is to be remembered that byelaws are not the only means by which Local Authorities may enforce sanitary requirements in the case of such premises as are now under consideration. The byelaws which a local authority may make under section 90 of the 38 & 39 Vict. c. 55, are merely intended to supplement the numerous enactments which, in that and other statutes, have direct reference to matters of importance in relation to houses of this description.

Suggested appendix to byelaws.

That these enactments should be brought specially to the knowledge of the persons who, as landlords or lodgers, will be affected by the byelaws is clearly desirable, and it will doubtless occur to many Authorities that the practical value of their byelaws will be materially enhanced by a carefully selected Appendix of statutory provisions.

S. B. Provis,
Secretary.

Local Government Board,
July, 1899.

Local authorities competent to make byelaws.—The provision in s. 90 of the Public Health Act, 1875, requiring as a preliminary to the making of byelaws under that section a declaration of the Local Government Board that the enactment is in force in the district, was, in effect, repealed by s. 8 of the Housing of the Working Classes Act, 1885 (48 & 49 Vict. c. 72). Assuming, therefore, that the regulation of houses let in lodgings or occupied by members of more than one family is not, as regards any particular district, the subject of express enactment in a local Act, byelaws on this subject may now be made by any urban or rural district council, without any intervention on the part of the Board, except in the matter of the confirmation of the byelaws.

Houses to which the model byelaws apply.—As pointed out in the foregoing memorandum, there is nothing in s. 90 of the Public Health Act, 1875, to prevent the making of byelaws which shall apply to every house or part of a house in the district that is let in lodgings or occupied by members of more than one family, and that is not a common lodging-house. As to what constitutes a common lodging-house, reference may be made to the note on p. 53. The proper construction of the term "lodgings" is a matter of some difficulty, as there is no statutory definition of the term which is directly applicable to the case. A lodger may be described as a tenant with the right of exclusive use of part of a house, the landlord, by himself or agent, retaining general dominion over the house itself. The effect, however, of judicial decisions is to show that the expression in a legal sense is susceptible of very various interpretations.

The expression is often used loosely of a person who enters into a contract for food and lodging with the keeper of a boarding-house without stipulating for the exclusive occupation of a particular room or rooms, though a separate apartment for sleeping may in fact be given to him. Of this, *Wright* v. *Stavert* (1860), 2 E. & E. 711 ; 29 L. J. Q. B. 161, is an example. But it is most commonly used to designate a person who takes part of, or rooms in, a house, the landlord or his agent residing also on the premises and supplying him with "attendance." In *Allan* v. *Liverpool Overseers* (1874), L. R. 9 Q. B. 180, Blackburn, J., points out that "a lodger in a house, although he has the exclusive use of rooms in the house in the sense that nobody else is to be there, and though his goods are stowed there, yet is not in exclusive occupation . . . because the landlord is there for the purpose of being able, as landlord's commonly do in the case of lodgings, to have his own servants to look after the house and the furniture, and has retained to himself the occupation, though he has agreed to give the exclusive enjoyment of the occupation to the lodger." Sir G. Jessel, M.R., in *Bradley* v. *Baylis* (1881), 8 Q. B. D. 194 ; 51 L. J. Q. B. 183 ; 46 L. T. 253 ; 30 W. R. 823 ; 45 J. P. 847, illustrates the meaning of the expression. The decision in that case was on the Registration Acts, but the illustrations are of general application. He says : "First of all, take the case of a *lodger*. It seems to me, as to unfurnished lodgings (and I will only deal with unfurnished lodgings, as it is the only class of cases with reference to which questions are likely to arise), where the owner of a house does not let the whole of it, but retains a part for his own residence, and resides there, and where he does not let out the passages, staircase and outer door, but gives to the 'inmates' (I use that term for my present purpose) merely a right of ingress or egress, and retains to himself the general control, with the right of interfering—I do not mean an actual interference, but a right to interfere, a right to turn out trespassers, and so on ; there I consider that such owner is the occupying tenant of the house, and the inmate, whether he has or has not the exclusive use of the room, is a lodger. That is one extreme case. Now I take another case, where the landlord lets out the whole of the house into separate apartments, and lets out each floor separately, so as to demise the passages, reserving simply to each inmate of the upper floors the right of ingress or egress over the lower passages, but parts entirely with the whole legal ownership, for the term demised, and retains no control over the house ; there, in my opinion, the inmates are *occupying tenants*, and are capable of being rated as such. That is an extreme case on the other side. There will be an immense number of intermediate cases, which, as I said before, can only be dealt with as they arise. Take such a case as the first of those before us. Does it make any

difference that the inmates have latch-keys to the outer door and also keys to the inner door? I think not. I think they are still lodgers notwithstanding. Does it make any difference that the landlord does not reside there personally, but has resident servants, who occupy, on his behalf, part of the house? I think not. I think that the inmates are still lodgers. On the other hand, suppose a landlord does not demise the whole of the house, but everything in it that can be demised, except the staircases and passages, etc., as to which he gives the inmates the right of ingress and egress, but exercises no control over, and does not reside in, the house. I think the inmates are occupying tenants. Here, again, does the fact of the landlord repairing or paying rates and taxes make any difference? I think not. Of course he has a right to enter to make such repairs, but still, in my opinion, that does not prevent the occupier being in rateable occupation."

The decisions under the Lodgers' Goods Protection Act, 1871, bear out the same view. In *Phillips* v. *Henson* (1877), 3 C. P. D. 26; 47 L. J. C. P. 273; 37 L. T. 432; 26 W. R. 214; 42 J. P. 137, it appeared that A., under a written agreement, rented from B., his sister-in-law, the greater part of a house unfurnished. He occupied part and sublet part of his holding; but paid the rent to the superior landlord, together with all rates and taxes. A. was held to be a lodger within the Lodgers Act. Again, in *Heawood* v. *Bone* (1884), 12 Q. B. D. 179; 51 L. T. 125; 48 J. P. 710, where H. occupied the first floor and basement of premises at a yearly rent, carrying on the business of a publisher there, but sleeping and residing elsewhere; he had no key of the outer door, which was under the control of his immediate landlord, who admitted him every morning, it was held that H. was not a lodger within the Act. The popular meaning of the word "lodger" is a person who lives and sleeps in the place. See, further, *Ancketill* v. *Baylis* (1882), 10 Q. B. D. 577; 52 L. J. Q. B. 104; 48 L. T. 342; 31 W. R. 233; Colt, 289; *S.C. sub-nom. Ancketill* v. *Roberts*, 46 J. P. 233, decided under the Registration Acts; *Morton* v. *Palmer* (1882), 51 L. J. Q. B. 7; 46 J. P. 151; and *Ness* v. *Stephenson* (1882) 9 Q. B. D. 245; 47 J. P. 134, both decided under the Lodgers' Goods Protection Act, 1871, and BLACKBURN, J., in *Roads* v. *Trumpington Overseers* (1870), L. R. 6 Q. B. 62, a rating case.

Taking the words "let in lodgings, or occupied by members of more than one family," in their ordinary sense, however, it is clear that the scope of s. 90 of the Public Health Act, 1875, is very wide. But a too liberal interpretation of the enactment in making byelaws on the several matters mentioned in the section, might result in the clauses being framed so as to apply to houses, and parts of houses, in regard to which it might be held to be altogether unreasonable to enforce such provisions. The Local Government Board suggest in their memorandum the application to houses coming within s. 90, the same principles as were applied by the judges to common lodging-houses in the case of *Langdon* v. *Broadbent* (1877), 37 L. T. (N.S.) 434; 42 J. P. 56. In that case, GROVE, J., observed that the object of requiring common lodging-houses to be registered was "to promote health by preventing dirt and overcrowding," and LINDLEY, J., gave reasons why regulations for this purpose were not required in regard to other houses. "The upper classes in society," he said, "are fastidious, and will not go to dirty houses: they therefore exercise the necessary supervision for themselves." Wherever the conditions of life are such as to justify the presumption that the occupants of "lodging-houses"* may be trusted to exercise proper supervision of their

* See the interpretation clause of the model series now under consideration.

dwellings as regards sanitary requirements, the Local Government Board would appear to entertain a very definite opinion that the byelaws should not apply. The criterion suggested for adoption as determining what houses shall be subject to the requirements of the byelaws, is, as will be seen, the rents paid by the lodgers. If the rent paid by any one lodger in a lodging-house falls below a prescribed minimum, the house will be subject to regulation by the byelaws. The assumption appears to be that if a house, whatever may be its value, receives a lodger at a low rent, the presence of that lodger affords *primâ facie* grounds for considering that the house requires sanitary supervision.

Landlord's apartments.—The question having been asked whether byelaws under s. 90 of the Public Health Act, 1875, will apply to the apartments occupied by the landlord, if resident upon the premises, it may be well to point out that where the landlord occupies part of the house for his separate use, that part is not "let in lodgings," and it seems very unlikely that circumstances could arise to bring it within the expression "occupied by members of more than one family." Accordingly, the byelaws would not generally apply to any such rooms.

Matters not dealt with in the model byelaws.—It will be noticed that the model series contains no provisions for varying the number of persons who may occupy a lodging-house, for the separation of the sexes in lodging-houses, or for enforcing the drainage of such houses. The reasons for these omissions are stated generally in the memorandum above. With regard, however, to the second matter—the separation of the sexes—a suggested clause will be found on p. 449.

Working class lodging-houses.—Special provisions are contained in Part III. of the Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 70). This Part is adoptive, and may be adopted by the London County Council in the county of London, by the urban district council in an urban district, and by the rural district council in a rural district, but in the case of a rural district certain special steps have to be taken before the Act can be adopted (ss. 54, 55). The local authority exercise their public health powers in carrying the Act into execution (s. 56); may acquire land (s. 57); may purchase existing lodging-houses (s. 58); may erect new lodging-houses (s. 59); and may sell or exchange lands (s. 60). The management of the lodging-houses is vested in the local authority (s. 61), and they may make byelaws for their regulation (s. 62), the fines imposed for any breach being paid to the credit of the funds out of which the expenses of Part III. are defrayed (s. 71). They are open to the inspection of the local authority or of any officer from time to time authorised by them (s. 70). If after seven years the lodging-houses established by the local authority are considered too expensive, they may be sold (s. 64). No person receiving poor relief, save in the case of accident or temporary illness, is qualified to be, or to continue to be, a tenant or occupier (s. 63). A water or gas authority may, in their discretion, supply water or gas to such lodging-houses either without charge or on such other favourable terms as they think fit (s. 69). There are further provisions relating to the expenses and borrowing of local authorities (ss. 65, 66), and loans to and powers of companies, societies and individuals (ss. 67, 68).

Seamen's lodgings.—By the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60) s. 214 : (1.) A local authority herein-after mentioned, whose district includes a seaport, may, with the approval of the Board of Trade, make

byelaws relating to seamen's lodging-houses in their district, and those byelaws shall be binding upon all persons keeping houses in which seamen are lodged and upon the owners thereof and persons employed therein.

(2.) The byelaws shall, amongst other things, provide for the licensing, inspection, and sanitary condition of seamen's lodging-houses, for the publication of the fact of a house being licensed, for the due execution of the byelaws, for preventing the obstruction of persons engaged in securing that execution, for the preventing of persons not duly licensed holding themselves out as keeping or purporting to keep licensed houses, and for the exclusion from licensed houses of persons of improper character, and shall impose sufficient fines not exceeding fifty pounds for the breach of any byelaw.

(3.) The byelaws shall come into force from the date therein named and shall be published in the London Gazette, and in one newspaper at the least, circulating in the district, and designated by the Board of Trade.

(4.) If the local authority do not within a time in each case named by the Board of Trade make, revoke, or alter, any byelaws under this section, the Board of Trade may do so.

(5.) Whenever Her Majesty in Council orders that in any district or any part thereof none but persons duly licensed in pursuance of byelaws under this section shall keep seamen's lodging-houses or let lodgings to seamen from a date therein named, a person acting in contravention of that order shall for each offence be liable to a fine not exceeding one hundred pounds.

(6.) A local authority may defray all expenses incurred in the execution of this section out of any funds at their disposal as sanitary authority, and fines recovered for a contravention of this section or of any byelaw under this section shall be paid to such authority and added to those funds.

(7.) In this section the expression "local authority" means in the administrative county of London, the county council, and elsewhere in England the local authority under the Public Health Acts, and the expression "district" means the area under the authority of such local authority.

SERIES XIII.—HOUSES LET IN LODGINGS OR OCCUPIED BY MEMBERS OF MORE THAN ONE FAMILY.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for draft forms on which to submit the byelaws for the Board's preliminary approval, before they are adopted by the local authority.*]

BYELAWS

MADE BY THE * WITH RESPECT TO HOUSES LET IN LODGINGS OR OCCUPIED BY MEMBERS OF MORE THAN ONE FAMILY IN THE † .

Interpretation of terms.

1. In these byelaws, unless the context otherwise requires, the following words and expressions have the meanings hereinafter respectively assigned to them; that is to say,— Interpretation.

"Council" means the * .

"District" means the † .

"Lodging-house" means a house or part of a house which is let in lodgings or occupied by members of more than one family:

"Landlord," in relation to a house or part of a house which is let in lodgings or occupied by members of more than one family, means the person (whatever may be the nature or extent of his interest in the premises) by whom or on whose behalf such house or part of a house is let in lodgings or for occupation by members of more than one family or who for the time being receives, or is entitled to receive the profits arising from such letting:

"Lodger," in relation to a house or part of a house which is let in lodgings or occupied by members of more than

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* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or* "Urban [*or* Rural] District Council of "; *as the case may be.*

† "Borough," *or* "Urban," *or* "Rural District of ."

one family, means a person to whom any room or rooms in such house or part of a house may have been let as a lodging for his use and occupation.

Interpretation of terms.—The interpretation of "lodging-house" follows the terms of s. 90 of the Public Health Act, 1875. As regards the expressions "landlord" and "lodger," the following observations suggest themselves. The statute does not, as in the case of common lodging-houses, afford any clear indication of the person or persons who should be made responsible for the observance of the byelaws. With regard to common lodging-houses, the frequent references to the "keeper," in ss. 76—88, rather obviously point to this person as the one upon whom the liability should devolve; and, in framing the Model Series III., the Local Government Board have given full effect to this view.* In relation, however, to a house let in lodgings, or occupied by members of more than one family, there is nothing in the statute itself to suggest that any one person should be aimed at. A glance at the list of subjects upon which byelaws are authorised, as regards such houses, will probably lead to the conclusion that the responsibility must be divided between the landlord and the lodger, using the terms in the sense in which they would be commonly understood. The legal definition of these terms, however, is a matter of more difficulty, in view partly of the judicial decisions already referred to,† and partly of the varying conditions affecting the legal interest in the premises of the person who would be styled the landlord. The landlord under the model byelaws, for instance, might be the owner or immediate lessee of the premises, or an under-tenant or sub-lessee, according to circumstances. Where the real landlord of a lodging-house does not appear, but is represented on the premises by a "deputy"—usually a person of low class and little substance—it may be thought desirable to so modify the byelaws as to attach the duty of compliance with some of the clauses to the actual landlord, rather than to the deputy (who might be the landlord within the meaning of the model clauses as they stand). This, no doubt, involves some difficulty; and, in ordinary cases, the selection of the "landlord" under the model byelaws, for the discharge of duties such as the byelaws impose upon him, appears to be justifiable from the point of view that he is the person benefited by the special use of the house as a lodging-house. (*Cf. Commissioner of Police* v. *Cartman*, [1896] 1 Q. B. 655; 60 J. P. 357; 65 L. J. M. C. 113; 74 L. T. 726; 44 W. R. 637; 12 T. L. R. 334; *Worth* v. *Brown* (1896) 62 J. P. 658; *Collman* v. *Mills*, [1897] 1 Q. B. 396; 61 J. P. 302; 66 L. J. Q. B. 170; 75 L. T. 590; 18 Cox C. C. 481; 13 T. L. R. 122). The clauses take no account of the possible subsistence of agreements, the effect of which may be to relieve the "landlord" of the obligations imposed upon him by the byelaws, and he alone is liable to penalties in case of the non-fulfilment of these obligations: it is in the interests of good administration perhaps that the local authority, in enforcing the byelaws, should not be hampered by having to consider the effect of covenants made between the several persons who may intervene between the superior landlord and the person actually keeping the lodging-house. A local authority made byelaws requiring registration, etc. from the landlord of a lodging-house, and defined "lodging-house" to mean a "house or part of a house which is let in lodgings or occupied by members of more than one family." B. let four unfurnished rooms of her house to M.

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* See pp. 57—72.

† See note (p. 441).

and his family. The High Court held that the justices were wrong in holding that B. did not come within the meaning of the definition as landlord of a lodging-house (*Roots* v. *Beaumont* (1886), 50 J. P. 244 *n* ; 51 J. P. 197). The definition of "lodger" embodied in this series seems wide enough to reach any person occupying under the "landlord," upon whom such special obligations as are not imposed upon the latter should properly devolve.

Exempted houses.

Exempted houses.

2. In either of the following cases, a lodging-house shall be exempt from the operation of these byelaws ; that is to say,—

(*a.*) Where the rent or charge payable by each lodger, and exclusive of any charge for the use by such lodger of any furniture is at the rate of *per week* or upwards :

(*b.*) Where the rent or charge payable by each lodger, and inclusive of any charge for the use by such lodger of any furniture is at the rate of *per week* or upwards.

Exemption clause.—In connection with this clause the remarks contained in the memorandum of the Local Government Board (p. 438), and in the note "Houses to which the model byelaws apply" (p. 443), should be referred to. The limits of rent prescribed by the byelaw must vary according to the circumstances of the district. But the rule should be to prescribe low amounts. Some local authorities extend the exemption to all houses where the landlord resides upon the premises and not more than one lodger is received in the house.

For fixing the number of persons who may occupy a house or part of a house which is let in lodgings or occupied by members of more than one family :

For the registration of houses so let or occupied :

For the inspection of such houses :

For enforcing the provision of privy accommodation for such houses, and for promoting cleanliness and ventilation in such houses :

For the cleansing and lime-washing at stated times of the premises, and for the paving of the courts and courtyards thereof :

For the giving of notices, and the taking of precautions in case of any infectious disease.

Number of occupants of lodging-house.

3. The landlord of a lodging-house shall not knowingly cause or suffer a greater number of persons than will admit of the provision of *three hundred cubic feet* of free air space for

each person of an age exceeding *ten years*, and of *one hundred and fifty cubic feet* of free air space for each person of an age not exceeding *ten years* to occupy, at any one time, as a sleeping apartment, a room which is used exclusively for that purpose.

4. The landlord of a lodging-house shall not knowingly cause or suffer a greater number of persons than will admit of the provision of *four hundred cubic feet* of free air space for each person of an age exceeding *ten years*, and of *two hundred cubic feet* of free air space for each person of an age not exceeding *ten years* to occupy, at any one time, as a sleeping apartment, a room which is not used exclusively for that purpose.

5. A lodger in a lodging-house shall not knowingly cause or suffer a greater number of persons than will admit of the provision of *three hundred cubic feet* of free air space for each person of an age exceeding *ten years*, and of *one hundred and fifty cubic feet* of free air space for each person of an age not exceeding *ten years* to occupy, at any one time, as a sleeping apartment, a room which is used exclusively for that purpose, and which has been let to such lodger.

6. A lodger in a lodging-house shall not knowingly cause or suffer a greater number of persons than will admit of the provision of *four hundred cubic feet* of free air space for each person of an age exceeding *ten years*, and of *two hundred cubic feet* of free air space for each person of an age not exceeding *ten years* to occupy, at any one time, as a sleeping apartment, a room which is not used exclusively for that purpose, and which has been let to such lodger.

Number of persons who may occupy a lodging-house.—In these clauses, the Local Government Board have endeavoured "to suggest a few simple rules whereby the number of occupants of rooms used for sleeping may be determined with reference to a minimum allowance of free air space for each occupant" (see the prefatory memorandum, pp. 438, 439). Clauses 3 and 4 apply to the landlord, and clauses 5 and 6 to the lodgers, as regards the several rooms let to them respectively. Nos. 3 and 5 deal with rooms which are only occupied at night, and Nos. 4 and 6 with those which are also occupied during the day. The effect of the clauses is to make both the landlord and the lodger responsible for overcrowding if they knowingly permit it to take place.

Standards of air space.—The standards of air space suggested in the above clauses, viz.—

For rooms used only at night—

For each person over ten years of age	- - -	300	cubic feet
For each person under ten years of age	- - -	150	„ „

For rooms not used exclusively at night—

For each person over ten years of age	- - -	400	„ „
For each person under ten years of age	- - -	200	„ „

should not be reduced. From the remarks contained in the memorandum of the Local Government Board (p. 439), it would seem that the Board would "gladly" see even higher standards adopted.

Variation of number of occupants of lodging-houses.—The observations of the Local Government Board, as regards the making of byelaws for "from time to time varying" the number of occupants of lodging-houses, will be found in the memorandum prefixed to this series (pp. 438, 439).

Separation of the sexes.—The general reasons influencing the Local Government Board in omitting from the model series a clause on this subject, are given in their memorandum (p. 439). They express their willingness to co-operate with a district council in framing byelaws on the subject, if the council are satisfied that such byelaws can be enforced without hardship. If the district council should be desirous of dealing with the matter in the byelaws, the following clause might be considered by them. It is based on one confirmed by the Local Government Board under the corresponding enactment in the Public Health (London) Act, 1891 (see 54 & 55 Vict. c. 76, s. 94). The object of the clause is rather the preservation of decency than the prevention of immorality. It will be observed that the clause casts the responsibility for compliance with its provisions upon the "lodger." It would seem to be impracticable to make the landlord responsible in all cases for the sleeping arrangements of his lodgers.

Separation of the sexes.

A lodger in a lodging-house shall not suffer any person above the age of *twelve years* to occupy as a sleeping apartment any room let to such lodger, if the room is occupied by more than one person above that age and of the opposite sex.

Particulars to be supplied by landlord.

7. The landlord of a lodging-house, within a period of after he shall have been required by a notice in writing, signed by the Clerk to the Council, and duly served upon or delivered to such landlord, to supply the information necessary for the registration of such house by the Council, shall, or by his agent duly authorised in that behalf, himself sign and furnish to the Council a true statement of the following particulars with respect to such house; that is to say,—

(*a.*) The total number of rooms in the house:

(*b.*) The total number of rooms let in lodgings or occupied by members of more than one family:

(*c.*) The manner of use of each room:

(*d.*) The number, age, and sex of the occupants of each room used for sleeping:

(*e.*) The Christian name and surname of the lessee of each room; and

(*f.*) The amount of rent or charge payable by each lessee.

Registration of lodging-houses.—Clause 7 of the model series enables the district council to demand such particulars relating to any lodging-house to which the byelaws apply, as will facilitate the keeping of a register. The time allowed for furnishing the statement should not be too short. "Seven days" may be suggested. The Local Government Board suggest in the memorandum issued with this series, that, before registration, the dimensions of the several rooms in each house should be ascertained, and the maximum number of inmates fixed in accordance with the rules embodied in clauses 3—6, and that the district council should then supply the landlord and lodgers with tickets or placards, to be affixed to the walls or doors, showing the number fixed for each sleeping apartment (see p. 439). In connection with this clause, see the decision in *Roots* v. *Beaumont* (1886), 50 J. P. 244 n.; 51 J. P. 197, referred to at p. 446, *ante*.

Inspection of premises.

8. In every case where the landlord of a lodging-house occupies or resides in any part of the premises, or retains a general possession or control of the premises, such landlord shall, at all times when required by the Medical Officer of Health, the Inspector of Nuisances, or the Surveyor of the Council, afford any such officer free access to the interior of the premises for the purpose of inspection.

9. In every case where the landlord of a lodging-house does not occupy or reside in any part of the premises or retain a general possession or control of the premises, every lodger who is entitled to have or to exercise the control of the outer door of the premises shall, at all times when required by the Medical Officer of Health, the Inspector of Nuisances, or the Surveyor of the Council, afford any such officer free access to the interior of the premises for the purpose of inspection.

10. Every lodger in a lodging-house shall, at all times when required by the Medical Officer of Health, the Inspector of Nuisances, or the Surveyor of the Council, afford any such officer free access for the purpose of inspection to the interior of any room or rooms which may have been let to such lodger.

Inspection of premises.—The above three clauses are framed under paragraph (3) of s. 90 of the Public Health Act, 1875. The first two clauses provide for the admission of any of the officers mentioned to the lodging-house, and the last for their admission into the rooms reserved to the several lodgers.

It will be observed that the officers named are respectively to have access to the house, and to the several rooms therein which are let to lodgers, "at all times" on demand. This applies to the night as well as to the daytime, and no doubt confers powers of very great value in connection with the detection of overcrowding. So far, however, as inspection during the night is concerned, the powers in question are not such as should be resorted to otherwise than sparingly, and after full consideration of the necessity for such action. It must be remembered that inspection at any hour during the twenty-four is expressly authorised, in the case of a common lodging-house, by the enactment in s. 85 of the Public Health Act, 1875; but as regards houses to which s. 90 of the Act applies, the power to authorise inspection during the night is a matter of inference only, depending on the fact that there is no limitation as to time in paragraph (3) of the section.

Obstruction of officers.

11. In every case where the Medical Officer of Health, the Inspector of Nuisances, or the Surveyor of the Council has, for the purpose of inspection, obtained access to the interior of a lodging-house or to the interior of any room or rooms in such house, a person shall not wilfully obstruct any such officer in the inspection of any part of the premises, or, without reasonable excuse, neglect or refuse, when required by any such officer, to render him such assistance as may be reasonably necessary for the purpose of such inspection.

Obstruction of officers.—This clause is guardedly drawn so as to secure that when an officer of the district council has obtained admission to a lodging house for the purpose of inspection, he shall not only not be obstructed, but receive all reasonable assistance in the performance of his duties.

Privy accommodation.

12. The landlord of a lodging-house shall provide privy accommodation for such house by means of a watercloset or waterclosets, an earthcloset or earthclosets, or a privy or privies.

He shall provide such accommodation so that the number of waterclosets, earthclosets, or privies in relation to the greatest number of persons who, subject to the restrictions imposed by any byelaw in that behalf, may, at any one time, occupy rooms in the house as sleeping apartments, shall be in the proportion of not less than one watercloset, earthcloset, or privy to every *twelve* persons.

Power to prescribe particular kinds of privy accommodation.—It may be a question whether that part of s. 90 of the Public Health Act, 1875, which refers to the provision of privy accommodation for lodging-houses, authorises a byelaw requiring that such accommodation shall be provided by means of waterclosets or of any other particular form of closet. The statute appears to be satisfied in ordinary cases where sanitary accommodation is required, by the provision of a sufficient watercloset, a sufficient earthcloset, or a sufficient privy, and the district council cannot forbid the construction of any particular form of closet, or enforce the provision of waterclosets to the exclusion of other forms, except in the case of a house which is without a

sufficient watercloset, earthcloset, or privy, in which case they may enforce the provision of a sufficient watercloset, if the circumstances of the case require it. (See ss. 35, 36 of the Public Health Act, 1875; *Wood* v. *Widnes Corporation*, [1898] 1 Q. B. 463; 62 J. P. 117; *Robinson* v. *Mayor, etc. of Sunderland* (1898), 62 J. P. 216; *Tinkler* v. *Wandsworth District Board of Works* (1858), 27 L. J. Ch. 342; 2 De G. & J. 261; 30 L. T. (o.s.) 146; 22 J. P. 223; and *Vestry of St. Luke's* v. *Lewis* (1862), 31 L. J. M. C. 73; 1 B. & S. 865; 5 L. T. (N.S.) 608; also *ante*, p. 23.) It is for the local authority to determine, on the report of their surveyor, whether the accommodation already provided is "sufficient," subject only to the right of appeal to the Local Government Board under s. 268 of the Act (*Sherborne Local Board* v. *Bogle*, Q. B. D., March 18th, 1880; 46 J. P. 675).

If, however, waterclosets were in general use throughout the district of a local authority, and the authority thought it proper to prescribe that, as regards houses let in lodgings or occupied by members of more than one family, privy accommodation should be provided exclusively by means of such closets, it is possible that the Local Government Board might confirm the byelaw.

Construction of waterclosets, earthclosets, and privies.—The next three clauses regulate the mode of construction of waterclosets, earthclosets, and privies, when provided in connection with lodging-houses in order to comply with the requirements of clause 12 of the present series, or any similar clause. Such byelaws can doubtless be made under paragraph (4) of s. 90 of the Public Health Act, 1875. Their requirements are identical with those of clauses 67—79 of the model series with respect to new streets and buildings*; but they are so drawn as to apply only where the construction of the various forms of closet is not, as regards the particulars specified, already the subject of regulation by any local Act or byelaws in force in the district. Where, therefore, the construction of closets is so regulated in all cases, it will be unnecessary for the district council to retain the three clauses now in question. Byelaws made under s. 157 (4) of the Public Health Act, 1875, with respect to waterclosets, earthclosets, and privies in connection with buildings, may, by virtue of s. 23 (2) of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), be made so as to apply to closets newly constructed in connection with any building, whatever may be the date of its erection. But unless expressly made applicable to buildings erected before the times mentioned in s. 157 of the Act of 1875, such byelaws will only apply to closets newly constructed in connection with buildings erected after those times. Hence, clauses 13—15 of the series as to lodging-houses should not necessarily be struck out where clauses 67—79 of the series as to new streets and buildings are in force, as they may be required in order to regulate the construction of closets in connection with old houses which are let in lodgings, or occupied by members of more than one family. Section 23 (2) of the Public Health Acts Amendment Act, 1890, is in force only where Part III. of the Act has been adopted by the district council, or (as respects any rural district) where this particular sub-section has been put in force by an order of the Local Government Board (ss. 3, 5).

Construction of waterclosets.

†**13.** In every case where, for the purpose of providing privy accommodation for a lodging-house in pursuance of the requirements of any byelaw in that behalf, the construction of a new

* See pp. 177—191. The notes on these clauses should be referred to.
† See note above.

watercloset is necessary, and where such construction, so far as regards the several details herein-after specified, is not already the subject of regulation by any statute or byelaw in force within the district, the landlord shall construct such watercloset in accordance with the following rules :—

(i.) If the watercloset is intended to be within the house he shall construct such watercloset in such a position that one of its sides at the least shall be an external wall :

(ii.) He shall construct in one of the walls of the watercloset, whether the situation of such watercloset is or is not within the house, a window of not less dimensions than *two feet* by *one foot*, exclusive of the frame, and opening directly into the external air :

He shall, in addition to such window, cause the watercloset to be provided with adequate means of constant ventilation by at least one air-brick built in an external wall of such watercloset, or by an air-shaft, or by some other effectual method or appliance :

(iii.) He shall furnish the watercloset with a separate cistern, or flushing box of adequate capacity, which shall be so constructed, fitted, and placed as to admit of the supply of water for use in such watercloset without any direct connection between any service pipe upon the premises and any part of the apparatus of such watercloset, other than such cistern or flushing box :

He shall furnish the watercloset with a suitable apparatus for the effectual application of water to any pan, basin, or other receptacle with which such apparatus may be connected and used, and for the effectual flushing and cleansing of such pan, basin, or other receptacle, and for the prompt and effectual removal therefrom of any solid or liquid filth which may from time to time be deposited therein :

He shall furnish the watercloset with a pan, basin, or other suitable receptacle of non-absorbent material, and of such shape, of such capacity and of such mode of construction as to receive and contain a sufficient quantity of water, and to allow all filth which may from time to time be deposited in such pan, basin, or receptacle to fall free of the sides thereof, and directly into the water received and contained in such pan, basin, or receptacle :

He shall not construct or fix under such pan, basin, or receptacle any "container" or other similar fitting:

He shall not construct or fix in or in connection with the watercloset apparatus any trap of the kind known as a "D trap."

Construction of earth-closets.

*14. In every case where, for the purpose of providing privy accommodation for a lodging-house in pursuance of the requirements of any byelaw in that behalf, the construction of a new earthcloset is necessary, and where such construction, so far as regards the several details herein-after specified, is not already the subject of regulation by any statute or byelaw in force within the district, the landlord shall construct such earthcloset in accordance with the following rules:—

(i.) If the earthcloset is intended to be within the house, he shall construct such earthcloset in such a position that one of its sides at the least shall be an external wall:

(ii.) He shall construct in one of the walls of the earthcloset, whether the situation of such earthcloset is or is not within the house, a window of not less dimensions than *two feet* by *one foot*, exclusive of the frame, and opening directly into the external air:

He shall, in addition to such window, cause the earthcloset to be provided with adequate means of constant ventilation by at least one air-brick built in an external wall of such earthcloset, or by an air-shaft, or by some other effectual method or appliance:

(iii.) He shall furnish the earthcloset with a reservoir or receptacle of suitable construction and of adequate capacity for dry earth or some other deodorising substance, and he shall construct and fix such reservoir or receptacle in such a manner and in such a position as to admit of ready access to such reservoir or receptacle for the purpose of depositing therein the necessary supply of dry earth or other deodorising substance:

He shall construct or fix, in connection with such reservoir or receptacle, suitable means or apparatus for the frequent and effectual application of a sufficient quantity of dry earth or other deodorising substance to any filth which may from time to time be deposited in any pan, pit, or other receptacle for filth

* See note to p. 452.

constructed, fitted, or used in or in connection with such earthcloset:

(iv.) If he provides in or in connection with the earthcloset a fixed receptacle for filth, he shall construct or fix such receptacle in such a manner and in such a position as to admit of the frequent and effectual application of a sufficient quantity of dry earth or other deodorising substance to any filth which may from time to to time be deposited in such receptacle, and in such a manner and in such a position as to admit of ready access to such receptacle for the purpose of removing the contents thereof. He shall not construct such receptacle of a capacity greater than may be sufficient to contain such filth and dry earth or other deodorising substance as may be deposited therein during a period not exceeding *three months*, or in any case of a capacity exceeding *forty cubic feet*. He shall construct such receptacle of such material or materials, and in such a manner as to prevent any absorption by any part of such receptacle of any filth deposited therein, or any escape, by leakage or otherwise, of any part of the contents of such receptacle. He shall construct or fix such receptacle so that the bottom or floor thereof shall be at least *three inches* above the level of the surface of the ground immediately adjoining the earthcloset, and so that the contents of such receptacle may not at any time be exposed to any rainfall, or to the drainage of any waste water or liquid refuse from any adjoining premises:

(v.) If he provides in or in connection with the earthcloset a movable receptacle for filth, he shall construct such earthcloset so that the position and mode of fitting of such receptacle may admit of the frequent and effectual application of a sufficient quantity of dry earth or other deodorising substance to any filth which may from time to time be deposited in such receptacle, and may also admit of ready access to that part of the earthcloset in which such receptacle may be placed or fitted, and of the convenient removal of such receptacle or of the contents thereof. He shall also construct such earthcloset so that the contents of such receptacle may not at any time be exposed to any rainfall, or to the drainage of any waste water or liquid refuse from any adjoining premises.

Construction of privies.

*15. In every case where, for the purpose of providing privy accommodation for a lodging-house in pursuance of the requirements of any byelaw in that behalf, the construction of a new privy is necessary, and where such construction, so far as regards the several details herein-after specified, is not already the subject of regulation by any statute or byelaw in force within the district, the landlord shall construct such privy in accordance with the following rules:—

(i.) He shall construct the privy at a distance of *six feet* at the least from a dwelling-house or public building, or any building in which any person may be or may be intended to be employed in any manufacture, trade, or business:

(ii.) He shall not construct the privy within the distance of *forty feet* from any well, spring, or stream of water used or likely to be used by man for drinking or domestic purposes, or for manufacturing drinks for the use of man, or otherwise in such a position as to render any such water liable to pollution:

(iii.) He shall construct the privy in such a manner and in such a position as to afford ready means of access to such privy for the purpose of cleansing such privy and of removing filth therefrom, and in such a manner and in such a position as to admit of all filth being removed from such privy, and from the premises to which such privy may belong, without being carried through any dwelling-house or public building or any building in which any person may be or may be intended to be employed in any manufacture, trade, or business:

(iv.) He shall provide the privy with a sufficient opening for ventilation, as near to the top as practicable, and communicating directly with the external air:

He shall cause the floor of the privy to be flagged or paved with hard tiles or other non-absorbent material, and he shall construct such floor so that it shall be in every part thereof at a height of not less than *six inches* above the level of the surface of the ground adjoining such privy, and so that such floor shall have a fall or inclination towards the door of such privy of *half-an-inch* to the foot:

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* See note to p. 452.

(v.) If the privy is constructed for use in combination with a fixed receptacle for filth, he shall construct or fix in or in connection with the privy suitable means or apparatus for the frequent and effectual application of ashes, dust, or dry refuse to any filth which may from time to time be deposited in such receptacle. He shall construct such receptacle so that the contents thereof may not at any time be exposed to any rainfall, or the drainage of any waste water or liquid refuse from any adjoining premises. He shall construct such receptacle of such material or materials and in such a manner as to prevent any absorption by any part of such receptacle of any filth deposited therein, or any escape, by leakage or otherwise, of any part of the contents of such receptacle. He shall construct such receptacle so that the bottom or floor thereof shall be in every part at least *three inches* above the level of the surface of the ground adjoining such receptacle. He shall not in any case construct such receptacle of a capacity exceeding *eight cubic feet*. He shall construct the seat of the privy so that the whole of such seat, or a sufficient part thereof, may be readily removed or adjusted in such a manner as to afford adequate access to such receptacle for the purpose of removing the contents thereof, and of cleansing such receptacle, or shall otherwise provide in or in connection with the privy adequate means of access to such receptacle for the purpose aforesaid :

(vi.) If the privy is constructed for use in combination with a movable receptacle for filth, he shall construct over the whole area of the space immediately beneath the seat of the privy, a flagged or asphalted floor, at a height of not less than *three inches* above the level of the surface of the ground adjoining the privy; and he shall cause the whole extent of each side of such space between the floor and the seat to be constructed of flagging, slate, or good brickwork, at least *nine inches* thick, and rendered in good cement or asphalted. He shall construct the seat of the privy, the aperture in such seat, and the space beneath such seat, of such dimensions as to admit of a movable receptacle for filth of a capacity not exceeding *two cubic feet* being placed and fitted beneath such seat in such a manner and in such a position as may effectually prevent the

deposit upon the floor or sides of the space beneath such seat, or elsewhere than in such receptacle, of any filth which may from time to time fall or be cast through the aperture in such seat. He shall construct the seat of the privy so that the whole of such seat, or a sufficient part thereof, may be readily removed or adjusted in such a manner as to afford adequate access to the space beneath such seat for the purpose of cleansing such space, or of removing therefrom or placing and fitting therein the appropriate receptacle for filth:

(vii.) He shall not cause or suffer any part of the space under the seat of the privy, or any part of any receptacle for filth in or in connection with the privy to communicate with any drain.

Cleansing of yards, areas, etc.

16. In every case where a lodger in a lodging-house is entitled to the exclusive use of any court, courtyard, area, or other open space within the curtilage of the premises, such lodger shall cause such court, courtyard, area, or other open space to be thoroughly cleansed from time to time as often as as may be requisite for the purpose of keeping the same in a clean and wholesome condition.

17. In every case where two or more lodgers in a lodging-house are entitled to the use in common of any court, courtyard, area, or other open space within the curtilage of the premises, the landlord shall cause such court, courtyard, area, or other open space to be thoroughly cleansed from time to time as often as may be requisite for the purpose of keeping the same in a clean and wholesome condition.

Cleansing of premises.—Throughout this series the lodger is held responsible for the cleanliness of any part of the premises of which he is entitled to the exclusive use; and the landlord for such parts as may be used in common by two or more lodgers; the effect being to relieve the lodger of unnecessary intrusion on the part of the landlord, while at the same time securing that the duties of cleansing shall not be evaded through divided responsibility where no one lodger has any such exclusive use. In clauses 16 and 17 this principle is applied to the cleansing of the courtyards, areas, etc. belonging to any lodging house. The paving of yards is dealt with in clause 38.

Water-closets and drains to be kept in good order.

18. The landlord of a lodging-house shall cause every part of the structure of every watercloset belonging to such house to be maintained at all times in good order, and every part of the apparatus of such watercloset, and every drain or means

of drainage with which such watercloset may communicate to be maintained at all times in good order and efficient action.

Earthclosets and privies to be kept in good order.

19. The landlord of a lodging-house shall cause every part of the structure of every earthcloset or privy belonging to such house, and every receptacle for filth provided or used in or in connection with such earthcloset or privy to be maintained at all times in good order.

He shall cause all such means or apparatus as may be provided or used, in or in connection with such earthcloset or privy and such receptacle, for the frequent and effectual application of dry earth or of any other deodorising substance to any filth deposited in such receptacle to be maintained at all times in good order.

Responsibility of landlord for structural details.—It will at once be admitted that the maintenance of a lodging-house in good condition as respects structural details, is a matter in regard to which the *onus* should fall upon the landlord rather than upon the lodgers. Accordingly he is required by clauses 18 and 19 to keep in good order the waterclosets and drains, or, if the house is not provided with waterclosets, the earthclosets or privies connected with the house. The landlord, as defined by the byelaws, may be empowered to call upon a superior landlord to keep the house in repair; but this will not affect the responsibility under the byelaws of the landlord as so defined (see note, p. 446).

Cleansing of waterclosets, earthclosets and privies.

20. In every case where a lodger in a lodging-house is entitled to the exclusive use of any watercloset, earthcloset, or privy belonging to such house, such lodger shall cause the pan, seat, floor, and walls of such watercloset, and the seat, floor, and walls of such earthcloset or privy to be thoroughly cleansed from time to time as often as may be necessary for the purpose of keeping such pan, seat, floor, and walls in a clean and wholesome condition.

21. In every case where two or more lodgers in a lodging-house are entitled to the use in common of any watercloset, earthcloset, or privy belonging to such house, the landlord shall cause the pan, seat, floor, and walls of such watercloset, and the seat, floor, and walls of such earthcloset, or privy to be thoroughly cleansed from time to time as often as may be necessary for the purpose of keeping such pan, seat, floor, and walls in a clean and wholesome condition.

Cleansing of sanitary conveniences.—The principle noticed as determining the responsibility for cleanliness in connection with clauses 16 and 17,

is further exemplified in connection with the cleansing of the watercloset or other privy accommodation provided for the house. If a closet is entirely under the control of one lodger, he must provide for the cleansing ; but if not, then the landlord is made responsible.

Earthclosets and privies to be supplied with dry earth, etc.

22. In every case where a lodger in a lodging-house is entitled to the exclusive use of any earthcloset or privy belonging to such house, such lodger shall cause every receptacle for filth provided or used in or in connection with such earthcloset or privy to be maintained at all times in a wholesome condition.

He shall cause a sufficient supply of dry earth or of some other deodorising substance to be from time to time provided for use in such earthcloset, privy, or receptacle for filth, and shall cause such dry earth or other deodorising substance to be frequently and effectually applied to such filth, or he shall cause such dry earth or other deodorising substance as may from time to time be supplied to such house, in pursuance of the statutory provision in that behalf, by the Council or by any person with whom they may contract for the purpose, to be frequently and effectually applied to such filth.

23. In every case where two or more lodgers in a lodging-house are entitled to the use in common of any earthcloset or privy belonging to such house, the landlord shall cause every receptacle for filth provided or used in or in connection with such earthcloset or privy to be maintained at all times in a wholesome condition.

He shall cause a sufficient supply of dry earth or of some other deodorising substance to be from time to time provided for use in such earthcloset, privy, or receptacle for filth, and shall cause such dry earth or other deodorising substance to be frequently and effectually applied to such filth, or he shall cause such dry earth or other deodorising substance as may from time to time be supplied to such house, in pursuance of the statutory provision in that behalf, by the Council or by any person with whom they may contract for the purpose, to be frequently and effectually applied to such filth.

Sanitary condition of earthclosets, etc.—Here, again, where exclusive use may be said to entail special responsibility, the lodger is the person whom the byelaws make subject to penalties for non-compliance with their provisions. In all other cases the liability rests with the landlord. The statutory provision referred to in the latter part of each byelaw will be found in the third paragraph of s. 37 of the Public Health Act, 1875.

24. The landlord of a lodging-house shall cause every part of the structure of every ashpit belonging to such house to be maintained at all times in good order. Ashpits to be kept in good order.

25. In every case where a lodger in a lodging-house is entitled to the exclusive use of any ashpit belonging to such house, such lodger shall cause such ashpit to be kept at all times in a wholesome condition.

26. In every case where two or more lodgers in a lodging-house are entitled to the use in common of any ashpit belonging to such house, the landlord shall cause such ashpit to be kept at all times in a wholesome condition.

Structural and sanitary condition of ashpits.—The incidence of liability here is the same as in regard to the structural and sanitary condition of water-closets, etc. The landlord must keep the structure in good order, and the question whether he, or some one of the lodgers, is to be responsible for keeping the convenience in a wholesome condition, depends on the further question whether any of the lodgers can claim the right to the exclusive use of the ashpit. If he can, he, and not the landlord, will be responsible.

27. A lodger in a lodging-house, or an occupant of any room therein, shall not throw any filth or wet refuse into any ashpit belonging to such house and constructed and adapted for use only as a receptacle for ashes, dust, and dry refuse. Wet refuse not to be thrown into ashpit.

Wet refuse not to be thrown into ashpits.—The object of the clause is the same as that of the latter part of clause 14 in the model series with respect to common lodging-houses; but in the present case the lodger is substituted for "the keeper" as the person responsible.

28. Every lodger in a lodging-house shall cause the floor of every room which has been let to him to be thoroughly swept once at least in *every day*, and to be thoroughly washed once at least in *every week*. Cleansing of floors.

29. Every lodger in a lodging-house shall cause every window, every fixture or fitting of wood, stone, or metal, and every painted surface in every room which has been let to him to be thoroughly cleansed from time to time as often as may be requisite. Cleansing of windows and other fittings.

Cleansing of floors, windows, etc.—These clauses correspond to Nos. 6 and 7 of the series as to common lodging-houses.

Filth, etc. to be removed from rooms.

30. Every lodger in a lodging-house shall cause all solid or liquid filth or refuse to be removed once at least in *every day* from every room which has been let to him, and shall once at least in *every day* cause every vessel, utensil, or other receptacle for such filth or refuse to be thoroughly cleansed.

Removal of filth and refuse.—In the case of a common lodging-house, clause 10 of the Model Series III. requires "the keeper" to provide for the removal of filth and refuse from rooms; but the circumstances of a lodging-house to which s. 90 of the Public Health Act applies, suggest that the lodger should comply with this requirement.

Cleansing of stairs and passages.

31. In every case where a lodger in a lodging-house is entitled to the exclusive use of any staircase, landing, or passage in such house, such lodger shall cause every part of such staircase, landing, or passage to be thoroughly cleansed from time to time as often as may be requisite.

32. In every case where two or more lodgers in a lodging-house are entitled to the use in common of any staircase, landing, or passage in such house, the landlord shall cause every part of such staircase, landing, or passage to be thoroughly cleansed from time to time as often as may be requisite.

Cleansing of stairs and passages.—See note on clauses 16 and 17 of the present series.

Keeping of animals.

33. A lodger in a lodging-house shall not cause or suffer any animal to be kept in any room which has been let to such lodger or elsewhere upon the premises in such a manner as to render the condition of such room or premises filthy or unwholesome.

Keeping of animals.—This is a clause "for promoting cleanliness" in lodging-houses, and as such is authorised by paragraph (4) of s. 90 of the Public Health Act, 1875. Byelaws "for the prevention of the keeping of animals on any premises so as to be injurious to health" may be made by an urban district council, or by a rural district council if invested with the necessary powers, under the latter part of s. 44 of the Act of 1875 (see Model Series II., clauses 10, 11 and 12 (pp. 41—44)), and s. 47 of the same Act prohibits the keeping of any swine in any dwelling-house, or so as to be a nuisance to any person.

Cleansing of cisterns.

34. In every case where a lodger in a lodging-house is entitled to the exclusive use of any cistern or other receptacle for the storage of water supplied to the premises, such lodger shall cause every part of the interior of such cistern or

receptacle to be thoroughly cleansed from time to time as often as may be requisite for the purpose of keeping the same in a clean and wholesome condition.

35. In every case where two or more lodgers in a lodging-house are entitled to the use in common of any cistern or other receptacle for the storage of water supplied to the premises, the landlord shall cause every part of the interior of such cistern or receptacle to be thoroughly cleansed from time to time as often as may be requisite for the purpose of keeping the same in a clean and wholesome condition.

Cleansing of cisterns.—The importance of these clauses is obvious. They deal with a matter which intimately affects the purity of the water supply, but which is frequently neglected even in ordinary houses. The propriety of including specific provisions on the subject in any series such as the present, therefore, seems scarcely open to argument, seeing that byelaws "for promoting cleanliness" are expressly authorised by the statute. In the metropolis the cleansing of cisterns forms the subject of byelaws made by sanitary authorities under s. 50 of the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76).

The following is a model clause issued by the Local Government Board for the guidance of sanitary authorities making byelaws under that enactment:

The occupier of any premises on which a tank, cistern, or other receptacle is used for the storing of water used or likely to be used by man for drinking or domestic purposes, or for manufacturing drink for the use of man, shall empty and cleanse the same, or cause the same to be emptied and cleansed, once at least in every six months, and at such other times as may be necessary to keep the same in a cleanly state and free from pollution.

. . . In the case of any premises the whole of which is let to lodgers, the person receiving the rent payable by the lodgers, either on his own account, or as the agent of another person, shall, for the purposes of this byelaw be deemed to be the occupier.

36. The landlord of a lodging-house shall cause all such means of ventilation as may be provided in or in connection with any room or passage in such house and in or in connection with any watercloset, earthcloset, or privy belonging to such house to be maintained at all times in good order. Ventilation.

Ventilation of lodging house.—The present clause is practically identical with clause No. 15 of the series as to common lodging houses, which applies

to "the keeper" of the common lodging-house. As a matter of structural detail, the *maintenance* of proper means of ventilation is scarcely one in respect of which the lodgers should be subject to penalties. The *use* of the means of ventilation, however, is another matter, and, as to this, reference may be made to clause 39.

Annual cleansing and lime-washing.

37. The landlord of a lodging-house shall, in the first week of the month of in every year, cause every part of the premises to be cleansed.

He shall, at the same time, except in such cases as are herein-after specified, cause every area, the interior surface of every ceiling and wall of every watercloset, earthcloset, or privy belonging to the premises, and the interior surface of every ceiling and wall of every room, staircase, and passage in the house to be thoroughly washed with hot lime-wash :

Provided that the foregoing requirement with respect to the lime-washing of the internal surface of the walls of rooms, staircases, and passages shall not apply in any case where the internal surface of any such wall is painted, or where the material of or with which such surface is constructed or covered is such as to render the lime-washing thereof unsuitable or inexpedient, and where such surface is thoroughly cleansed, and the paint or other covering is renewed, if the renewal thereof be necessary for the purpose of keeping the premises in a cleanly and wholesome condition.

Annual cleansing and lime-washing of premises.—There is no provision for byelaws on this subject in connection with common lodging-houses the matter being dealt with in s. 82 of the Public Health Act, 1875. Section 90 of the Act, however, expressly authorises byelaws "for the cleansing and lime-washing at stated times" of such premises as come within the scope of that enactment, and the present clause has been framed to give effect to the provision. Section 82 requires common lodging-houses to be lime-washed twice a year, viz., in the first week of April and of October. In order, therefore, that the annual cleansing of houses let in lodgings may be properly supervised, and also to avoid the Easter holidays, which sometimes fall in the first week in April, it is suggested that "May" should be inserted in paragraph 1 of the byelaw. The proviso to the clause seems necessary in order to render the byelaw reasonable.

Paving of yards.

38. The landlord of a lodging-house shall cause every court and courtyard thereof to be properly paved with a hard, durable, and impervious pavement, evenly and closely laid upon a sufficient bed of good concrete and sloped to a properly constructed channel leading to a trapped gully grating, which shall be so constructed and placed as effectually to carry off all rain or waste water from such court or courtyard.

He shall cause such pavement, channel, and grating to be kept at all times in good order and in proper repair.

Paving of courts and courtyards.—This being a matter connected with the structure of the lodging-house, is dealt with by the byelaw as one in which the landlord should be responsible. He is both to see that the yard is paved, and to keep the pavement in repair. It is also his duty to provide for the cleansing of the yard if it is used in common by two or more lodgers (see clause 17). In other cases the lodger is responsible for such cleansing (clause 16). Byelaws, as to paving of yards in connection with dwelling-houses, may be made under s. 23 of the Public Health Acts Amendment Act, 1890, where that section is in force.

Windows to be opened.

39. Every lodger in a lodging-house shall, except in such cases as are herein-after specified, cause every window of every room which has been let to him, and which is used as a sleeping apartment, to be opened and to be kept fully open for *one hour* at least in the forenoon and for *one hour* at least in the afternoon of every day:

Provided that such lodger shall not be required in pursuance of this byelaw, to cause any such window to be opened or to be kept open at any time when the state of the weather is such as to render it necessary that the window should be closed, or when any bed in any such room may be occupied by any person in consequence of sickness or of some other sufficient cause.

Ventilation of rooms.—Except that the lodger is substituted for "the keeper," this clause differs in no material respect from clause No. 16 of the series as to common lodging-houses. The abstract propriety of making each lodger—rather than the landlord—responsible for the ventilation of his own rooms, can scarcely be questioned in the case of houses "let in lodgings"; but the probability of the requirements of the byelaw being fully complied with, must, at least, be open to doubt, where the matter is left to the lodgers.

Notice in cases of infectious disease.

40. The landlord of a lodging-house, immediately after he shall have been informed, or shall have ascertained that any person in such house is ill of an infectious disease, shall give written notice thereof to the medical officer of health of the Council.

41. In every case where a lodger in a lodging-house has been informed, or has ascertained, or has reasonable grounds for believing that an occupant of any room which has been let to such lodger is ill of an infectious disease, such lodger shall forthwith give written notice thereof to the landlord and to the

medical officer of health of the Council, and verbal or written notice thereof to every other lodger in such house.

Notices in case of infectious disease.—Clause 40 of this series follows the lines of s. 80 of the Public Health Act, 1875, which relates to common lodging-houses, in making the landlord responsible for "the giving of notices . . . in case of any infectious disease," and in requiring that the notice shall be given to the medical officer of health. Clause 41 supplements the provision by making it the duty of the lodger in whose rooms the patient is found, as well as of the landlord of the house, to give notice to the medical officer. The lodger is likewise to give notice in writing to the landlord, and, verbally, to every other lodger in the house. This verbal notice may be described as a "precaution" against the spread of disease, as in most cases, probably, the modern sensitiveness to anything in the nature of infection will be sufficient to cause the lodgers receiving the notice to take defensive measures on their own account. But the notice to the medical officer of health (doubly provided for by the byelaw) will enable that officer, in connection with the clauses as to inspection, to set in motion, and afterwards to supervise, the application of the machinery of isolation and disinfection, and, where necessary, the removal of the patient to hospital.

Removal of patient to hospital.

42. In every case where, in pursuance of the statutory provision in that behalf, an order of a justice has been obtained for the removal from a lodging-house to a hospital, or other place for the reception of the sick, of a person who is suffering from any dangerous infectious disorder and is without proper lodging or accommodation, or lodged in a room occupied by more than one family, the landlord of such house, and the lodger to whom any room whereof such person may be an occupant has been let shall, on being informed of such order, forthwith take all such steps as may be requisite on the part of such landlord and of such lodger, respectively, to secure the safe and prompt removal of such person in compliance with such order, and shall, in and about such removal, adopt all such precautions as, in accordance with any instructions which such landlord and such lodger, respectively, may receive from the medical officer of health of the Council, may be most suitable for the circumstances of the case.

Removal of patient to hospital.—This clause is so framed as to bring it within the scope of s. 90 (6) of the Public Health Acts, 1875. With regard to "the taking of precautions" in case of infectious disease, the enactment is identical in form with s. 80 (3) of the Act, which relates to common lodging-houses. The present clause, however, differs from the third paragraph of clause 18 of the common lodging-house series, in that it refers to an order of a justice for the removal of the patient to hospital, instead of to an order of the local authority for that purpose. It will be seen that the provision in s. 124 of the Act above mentioned, enabling the local authority, in the case of a person in a common lodging-house who is suffering from a dangerous infectious disorder, to take action altogether irrespective of the character of

the accommodation available for him in the house, does not extend to any similar case in a house let in lodgings. Hence the compulsory removal of the patient in such a case requires an order of a justice, and such an order can only be made on its being shown, *inter alia*, that, if the patient remains in the house, he will not have "proper lodging or accommodation" or that he will be "lodged in a room occupied by more than one family." The byelaw requires the landlord, as well as the lodger (assuming that the latter is not himself the patient) to assist in the removal, and it may be pointed out that under the last paragraph of s. 124 of the Act, any person who wilfully disobeys or obstructs the execution of the order will be liable to a penalty not exceeding ten pounds.

Penalties.

43. Every person who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of *five pounds*, and in the case of a continuing offence to a further penalty of *forty shillings* for each day after written notice of the offence from the Council: Penalties.

Provided nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Recovery of penalties.—See s. 251 of the Public Health Act, 1875, and notes thereon in Lumley's Public Health, 5th ed., p. 333.

Repeal of Byelaws.

44. From and after the date of the confirmation of these byelaws, the byelaws relating to which were made on the day of in the year one thousand eight hundred and by the , and were confirmed on the day of in the year one thousand eight hundred and by [one of Her Majesty's principal Secretaries of State] [the Local Government Board] shall be repealed. Repeal.

Repeal of byelaws.—If there are any byelaws with respect to houses let in lodgings in force in the district, and the council are desirous of repealing such byelaws, the blanks in this clause should be filled, and the clause added to the series.

SERIES XIV.

CEMETERIES.

CEMETERIES.

MEMORANDUM.

By section 2 of the Public Health (Interments) Act, 1879 (42 & 43 Vict. c. 31), it is enacted that the provisions of the Public Health Act, 1875, as to a Mortuary or place for the reception of the dead before interment shall extend to a Cemetery or place for the interment of the dead. 38 & 39 Vict. c. 55, s. 141; 42 & 43 Vict. c. 31, s. 2.

The effect of this extension to a Cemetery of the powers which, under section 141 of the Public Health Act, 1875, may be exercised by a Local Authority in relation to a Mortuary is to enable the Authority to make byelaws with respect to the management and charges for use of any Cemetery which has been provided by them under the provisions of the Public Health (Interments) Act, 1879.

JOHN LAMBERT,
Secretary.

Local Government Board,
April, 1899.

Local authorities competent to adopt the model byelaws.—Byelaws with respect to the management and charges for the use of a cemetery may be made under s. 141 of the Public Health Act, 1875, as extended by the Public Health (Interments) Act, 1879, by any local authority by whom a cemetery has been provided under the latter Act. The Act makes it compulsory on a local authority to provide a cemetery if they are required by the Local Government Board to do so. It is not obligatory upon them in any case to make byelaws under these enactments; but although, as will be seen, the scope of the clauses which the Local Government Board suggest for adoption is somewhat limited, the matters dealt with in the model series are of considerable importance on sanitary grounds, and the series has been adopted by many local authorities who have made byelaws on the subject.

Circumstances under which it is incumbent on the local authority to provide a cemetery.—The legislature has not specified the cases in which it is incumbent upon the local authority to give effect to the provisions of the Public Health (Interments) Act; "but, seeing that it is incorporated with the Public Health Act, there can be no doubt that wherever, in the interests of the public health, it is necessary that a cemetery should be provided in any locality, the legislature contemplated that the local authority would exercise the important powers now conferred upon them. The

following may be referred to as circumstances under which it will be incumbent upon the sanitary authority to take action:

"1. Where in any burial ground which remains in use there is not proper space for burial, and no other suitable burial ground has been provided;

"2. Where the continuance in use of any burial ground (notwithstanding there may be such space) is by reason of its situation in relation to the water supply of the locality, or by reason of any circumstances whatsoever, injurious to the public health;

"3. Where, for the protection of the public health, it is expedient to discontinue burials in a particular town, village, or place, or within certain limits.

"There are other circumstances which might render it necessary or expedient that a cemetery should be provided, such as inconvenience of access from the populous parts of the district to the existing burial ground, or the nature of the site, or the character of the subsoil; and instances may exist where, in deference to the wishes of the inhabitants, it may be expedient to provide, in accordance with the policy of the Burial Acts, a cemetery in which persons of different creeds may be buried with their own religious rites. On all or any of the foregoing grounds the authority of the Local Government Board may be invoked, and if the application should prove well founded, a compulsory order would necessarily follow." (Circular of Local Government Board, August 19th, 1879.)

Incorporation of Cemeteries Clauses Act, 1847.—In order to make further provision for the due maintenance and management of a cemetery the Public Health (Interments) Act, incorporates the Cemeteries Clauses Act, 1847 (10 & 11 Vict. c 65), and the Local Government Board (Circular Letter, August 19th, 1879) thought it right to direct the attention of local authorities to the following obligations and powers imposed upon, and exerciseable by, them under the incorporated enactments.

With respect to the making of the cemetery (10 & 11 Vict. c. 65, ss. 10, 11, 15, 16):

"The cemetery is not to be constructed nearer to any dwelling-house than two hundred yards, except with the consent of the owner and occupier.

"The sanitary authority may build such chapels in the cemetery for the performance of burial services as they may think fit, and lay out and embellish the grounds of the cemetery.

"The cemetery must be inclosed by substantial walls, or iron railings, of the height of eight feet at least.

"The sanitary authority must keep the cemetery and the buildings and fences thereof in complete repair and in good order and condition."

With respect to burials (10 & 11 Vict. c. 65, ss. 23, 25, 27, 35, 36):

"The sanitary authority may set apart a portion of the cemetery for burials according to the rites of the Established Church, and the bishop of the diocese may, on the application of the sanitary authority, consecrate the portion so set apart.

"A chapel, to be approved by the bishop, must be built on the consecrated part for the performance of the burial service of the Established Church.

"A salaried chaplain is to be appointed to officiate in the consecrated part of the cemetery, the appointment and salary to be subject to the approval of the bishop.

"The sanitary authority may set apart the whole or a portion of the unconsecrated part of the cemetery as a place of burial for persons not being members of the Established Church, and may allow in any chapel built in such unconsecrated part a burial service to be performed according to the rites of any church or congregation other than the Established Church."

With respect to exclusive rights of burial and monumental inscriptions (10 & 11 Vict. c. 65, s. 40):

"The sanitary authority may set apart portions of the cemetery for the purpose of granting exclusive rights of burial therein, and may sell the exclusive right of burial in such portions, and the right of placing any monument or gravestones in the cemetery or any tablet or monumental inscription on the walls of any chapel or other building in the cemetery."

Scope of byelaws under s. 141 of the Public Health Act, 1875, as applied to cemeteries.—In framing byelaws under s. 141 of the Public Health Act, 1875, as rendered applicable to cemeteries by s. 2 of the Public Health (Interments) Act, 1879, local authorities should be advised to limit the scope of the clauses to subjects such as those dealt with in the model series. The making of such byelaws will not prevent their enforcing such fees and regulations as are either authorised by the Cemeteries Clauses Act, 1847 (see, *e.g.*, ss. 38, 43 of that Act), or may properly be made the conditions of any grants of exclusive rights of burial; but these matters should be regarded as beyond the scope of such byelaws as the Local Government Board are prepared to approve. The Cemeteries Clauses Act, for example, deals with the following, among other matters, which are sometimes improperly included in such series, viz.:

Registration of burials and searching, etc., of registers (ss. 32, 33);
Keeping of plan of cemetery and book of reference, and of register of grants of exclusive rights of burial (ss. 41, 43);
Prohibition of burials in chapel or within fifteen feet of its walls (s. 39);
Consent of owner to burial in private grave (s. 48);
Assignment of rights of burial (ss. 44—46);
Damage to cemetery (s. 58);
Games, sports, discharge of firearms, disturbance of funerals, and nuisances in cemetery (s. 59).

The production at the time of burial of a certificate of the registrar of deaths, or coroner, as the case may be, is another matter as to which the byelaws cannot properly provide. See ss. 17, 18 of the Births and Deaths Registration Act, 1874 (37 & 38 Vict. c. 88).

Byelaws subject to all the provisions of the Public Health Act, 1875.—As the Public Health (Interments) Act, 1879, is to be read as one with the Public Health Act, 1875, all the provisions of the latter Act respecting byelaws apply to byelaws as to cemeteries such as those now in question.

Appointment of gravediggers, etc.—In a circular issued with the model byelaws (February 16th, 1881), the Local Government Board drew attention to s. 37 of the Cemeteries Clauses Act, 1847, by which, as incorporated with the Act of 1879, the local authority are enabled to appoint gravediggers and other servants necessary for the care and use of the cemetery. The Local Government Board point out that "where a gravedigger is appointed by the local authority, they may conveniently dispense with many regulations which might otherwise require to be embodied in byelaws. It may be assumed

that, as a servant of the local authority, the gravedigger will act in strict accordance with their directions as to such matters as the appointment of grave spaces, the dimensions of graves, and their separation by a sufficient thickness of undisturbed earth. These subjects may accordingly be regarded as outside the range of such byelaws as will ordinarily be needed. At the same time, it is important . . . that the local authority should give definite instructions to their servants as to the manner in which their duties are to be discharged."

Sanitary requirements of cemeteries.—A memorandum on the Sanitary Requirements of Cemeteries which was issued by the Local Government Board, in the month of August, 1888, "embodies the hygienic principles laid down by various English and foreign authorities as requisite to be observed in the establishment of a cemetery, to prevent it from becoming a source of nuisance and danger to the living." A copy of this memorandum will be found at p. 478. It includes in an appendix a copy of the regulations issued by the Secretary of State for the Home Department, for burial grounds provided under the Burial Acts.

Byelaws under 24 & 25 Vict. c. 61, s. 21.—Section 21 of the 24 & 25 Vict. c. 61, as re-enacted in Sched. V. to the Public Health Act, 1875, empowers an urban district council, constituted a burial board, from time to time to pass byelaws for the preservation and regulation of all burial grounds within their jurisdiction. No special series of model byelaws has been framed by the Local Government Board under this enactment; but the provisions of the present series may be taken as the basis of such byelaws in any case where they may be required.

Right of burial.—Burial in the parish churchyard is a common law right inherent in the parishioners, but the mode of burial is of ecclesiastical cognizance. Accordingly the court will refuse a *mandamus* to inter the body of a parishioner in an iron coffin (*Rex* v. *Coleridge* (1819), 2 B. & Ald. 806; 1 Chit. 588; 21 R. R. 498), or to compel a rector to bury the corpse of a parishioner in a vault, or in any particular part of a churchyard (*Ex parte Blackmore* (1830), 1 B. & Ad. 122). A prescription for a right of burial in a chancel claimed as belonging to a messuage, has been allowed (*Warings* v. *Griffiths* (1758), 1 Burr. 440). A custom in a parish for the inhabitants to bury as near as possible to their ancestors is bad (*Fryer* v. *Johnson* (1755), 2 Wils. 28).

Overseers are not bound either by common law or by 43 Eliz. c. 2, to bury a pauper settled in their parish, who dies in a parish, but not in any parish house (*R.* v. *Stewart* (1840), 12 A. & E. 773; 4 P. & D. 349). Every person dying in this country, and not within certain ecclesiastical prohibitions, is entitled to christian burial (*ibid*). "It should seem that the individual under whose roof a poor person dies is bound to carry the body, decently covered, to the place of burial; he cannot keep him unburied, nor do anything which prevents christian burial; he cannot therefore cast him out, so as to expose the body to violation or to offend the feelings or endanger the health of the living; and for the same reason he cannot carry him uncovered to the grave. It will probably be found, therefore, that where a pauper dies in any parish house, poor house, or union house, that circumstance casts on the parish or union, as the case may be, to bury the body: not by virtue of the statute of Elizabeth, but on the principles of the common law" (*ibid.*, DENMAN, C.J.). Later decisions show that the expression "christian burial" is synonymous with decent burial.

A parent is bound to provide christian,—*i.e.*, decent,—burial for the body of

a deceased child, if he has the means ; but, if he has not the means, though the body remains unburied and becomes a nuisance to the neighbourhood, he is not indictable for the nuisance, notwithstanding he could have obtained money for the burial expenses by way of loan from the poor law authorities of the parish, for he is not bound to incur a debt (*R.* v. *Vann* (1851), 21 L. J. M. C. 39 ; 2 Den. C. C. 325 ; T. & M. 632 ; 15 Jur. 1090 ; 5 Cox C. C. 379). But if a person contract for the burial he is liable under the contract. Thus, an infant is liable upon a contract for her deceased husband's funeral expenses (*Chapple* v. *Cooper* (1844), 13 M. & W. 252 ; 13 L. J. Ex. 286). In that case it seems to have been doubted whether a child or a more distant relation, being an infant, would be liable upon a contract for the burial of a parent or a relation. The husband is liable for the necessary expense of the decent burial of his wife from whom he has been separated, whether the party incurring such expense is an undertaker or a mere volunteer (*Ambrose* v. *Kenison* (1851), 20 L. J. C. P. 135 ; 10 C. B. 776 ; *Jenkins* v. *Tucker* (1788), 1 H. Bl. 90) ; or whoever the party may be who buried her (*Bradshaw* v. *Beard* (1862), 31 L. J. C. P. 273 ; 12 C. B. (N.S.) 344 ; 8 Jur. (N.S.) 1228 ; 6 L. T. 458).

There is no property in a dead body (*R.* v. *Sharpe* (1857), Dea. & Bell C. C. 160 ; 26 L. J. M. C. 47 ; 3 Jur. (N.S.) 192 ; 5 W. R. 318 ; 7 Cox C. C. 214 ; *Williams* v. *Williams* (1852), 20 Ch. D. 659 ; 51 L. J. Ch. 385 ; 46 L. T. 275 ; 30 W. R. 438 ; 15 Cox C. C. 39 ; 46 J. P. 726). The executors have, however, a right to the possession of the body, and their duty is to bury it, although there is direction in the will that some other person should cause the body to be burnt (*Williams* v. *Williams*, *ibid.*, *In re Dixon*, [1892] P. 386 ; 56 J. P 481). Where a gaoler refused to deliver up the body of a person, who had died while a prisoner in execution of his custody, to the executors of the deceased, unless they would satisfy certain claims made against the deceased by the gaoler, the court issued a peremptory *mandamus* in the first instance commanding that the body should be delivered up to the executors (*R.* v. *Fox* (1841), 2 Q. B. 247 ; 1 G. & D. 566).

A dead body, although by law it belongs to no one, is under the protection of the public. "If it lies in consecrated ground the ecclesiastical law will interpose for its protection ; but whether in ground consecrated or unconsecrated, indignities offered to human remains in improperly and indecently disinterring them are the ground of an indictment" (BYLES, J., in *Foster* v. *Dodd* (1867), L. R. 3 Q. B. 67 ; 8 B. & S. 842, 854 ; 37 L. J. Q. B. 28 ; 17 L. T. 614). It is a misdemeanor at common law to enter an unconsecrated burial ground, and without the knowledge or consent of the owners of the ground, or authority of any kind, to dig up and carry away a corpse buried therein ; although the person committing the act may have been actuated by motives of affection and respect to the deceased, and of religious duty, and have conducted the removal decently (*R.* v. *Sharpe*, *supra*).

Special provision is made for the burial of dead human bodies cast on the shore from the sea, etc. If any person find a dead body cast on shore from the sea, he shall, within six hours, give notice thereof to one of the churchwardens (if they still act as overseers) or overseers or police constable who must communicate such information to the parish officers where the body shall be found ; he shall have a reward of five shillings to be paid him by the churchwarden or overseer ; if not he shall forfeit five pounds. The expenses are repaid the overseers by the county treasurer (48 Geo. 3, c. 75, ss. 3—6 ; 49 Vict. c. 20 ; *R.* v. *Kent Treasurer* (1889), 22 Q. B. D. 603 ; 58 L. J. M. C. 71 ; 60 L. T. 426 ; 37 W. R. 619 ; 16 Cox C. C. 583 ; 53 J. P. 279). The churchwarden (where he still acts as overseer) or overseer must have the body forthwith removed to some convenient place, and with all convenient speed

cause it to be decently interred in the churchyard or burial ground of such parish or place, under a penalty of five pounds (48 Geo. 3, c. 75, ss. 1, 7). These provisions also apply to the case of dead human bodies found in or cast on shore from any tidal or navigable waters, and to all such bodies found floating or sunken in any such waters, and brought on to the shore or bank thereof, and notice may be given to the police constable, who must forthwith communicate it to the overseers (49 Vict. c. 20).

Burial fees.—No burial fee is due at common law, but it may be due by custom in any particular parish (*Andrews* v. *Cawthorne* (1745), Willes, 536). The canon law forbade the payment or taking of any fee for burial. No fee is payable where no service is done (*Patten* v. *Castleman* (1753), 1 Lee, 387), and a custom to pay a fee where no service is done is void (*Naylor* v. *Scott* (1729), 2 Ld. Raym., 1558). A vicar of a parish, being freeholder of the church and churchyard, may make a special contract for the payment of a fee, other than the customary burial fee (if any), for the burial of a non-parishioner in a particular vault in the parish church (*Neville* v. *Bridger* (1874), L. R. 9 Ex. 214 ; 43 L. J. Ex. 147 ; 30 L. T. 690 ; 22 W. R. 740). As to the right of the incumbent to fees, see, further, *Spry* v. *Emperor* (1840), 6 M. & W. 639 ; 10 L. J. Ex. 50 ; *Spry* v. *Gallop* (1847), 16 M. & W. 716 ; 16 L. J. Ex. 218 ; *Edgell* v. *Burnaby* (1853), 8 Ex. 788 ; *Harris* v. *Lambeth Burial Board* (1883), 47 J. P. 501 ; *Cronshaw* v. *Wigan Burial Board* (1873), L. R. 8 Q. B. 217 ; 42 L. J. Q. B. 137 ; 28 L. T. 283 ; under the Cemetery Acts, see *Vaughan* v. *South Metropolitan Cemetery Co.* (1860), 1 J. & H. 256 ; 30 L. J. Ch. 265 ; 7 Jur. (N.S.) 159 ; 3 L. T. 727 ; 9 W. R. 228 ; *Bowyer* v. *Stantial* (1878), 3 Ex. D. 315 ; 38 L. T. 271 ; under the Burial Acts, see *Day* v. *Peacock* (1865), 18 C. B. (N.S.) 702 ; 34 L. J. C. P. 225 ; 11 Jur. (N.S.) 428 ; 12 L. T. 571 ; 13 W. R. 717 ; *Hornby* v. *Toxteth Burial Board* (1862), 31 Beav. 52 ; 31 L. J. Ch. 643 ; 8 Jur. (N.S.) 531 ; 6 L. T. 146 ; 10 W. R. 550.

A burial board for a parish is under no obligation to give the incumbent of such parish notice of a burial that is about to take place of the body of a parishioner ; and if, in consequence of his not receiving such notice, the incumbent does not perform the service, he cannot recover from the burial board any fee that may have been paid through the burial board to some other person for performing such service, either as money received to his use or by way of damages (*Wood* v. *Headingley-cum-Burley Burial Board*, [1892] 1 Q. B. 713 ; 66 L. T. 90 ; 40 W. R. 390). But, apart from the provisions of the Burial Laws Amendment Act, 1890 (43 & 44 Vict. c. 41), a person commits an ecclesiastical offence if, not being in orders, or though in orders not being authorised in that behalf by the incumbent of the parish, he conducts a religious service at a burial in the consecrated portion of the burial ground of that parish. It is, therefore, an illegal act on the part of a burial board knowingly to permit such unqualified or unauthorised person so to act, and, *semble*, if there were reason for believing that the burial board would continue to permit such persons so to act, the board would be restrained by injunction (*ibid.*).

Cremation.—The first known case of cremation in this country took place in 1769 ; the next known case occurred in 1882. The opinion of the judges on the legality of destroying the dead by cremation was at first very halting and unsatisfactory. All doubt was set at rest by Sir JAMES FITZJAMES STEPHEN'S famous declaration in *R.* v. *Price* (1884), 12 Q. B. D. 247 ; 53 L. J. M. C. 51 ; 33 W. R. 45 ; 15 Cox C. C. 389. He there lays it down : "After full consideration I am of opinion that a person who burns instead of burying a

dead body does not commit a criminal act unless he does it in such a manner as to amount to a public nuisance at common law. My reason for this is that upon the fullest examination of the authorities I have . . . been unable to discover any authority for the proposition that it is a misdemeanour to burn a dead body, and in the absence of such authority I feel I have no right to declare it to be one."

It may be affirmed, therefore, that to burn a dead body instead of burying it is not a misdemeanour, unless it is so done as to amount to a public nuisance (*R.* v. *Price*, *supra*; *R.* v. *Stephenson* (1884), 13 Q. B. D. 331; 49 J. P. 486; 53 L. J. M. C. 176; 33 W. R. 44). If an inquest is to be held upon a dead body it is a misdemeanour to dispose of the body so as to prevent the coroner from holding the inquest (*R.* v. *Stephenson*, *supra*).

It has been held in the Consistory Court of London that the court would not be justified in granting a faculty for enabling remains to be removed after burial in consecrated ground for cremation; but where there had been a previous cremation in pursuance of directions left by the deceased, there is no legal objection to the burial of the ashes in consecrated ground, with the use of the burial service (*In re Dixon*, [1892] P. 386; 56 J. P. 481). It would appear that cremated remains cannot lawfully be interred in or under a parish church, except under the authority of a faculty from the ordinary (*In re Kerr*, [1894] P. 284).

As to the legality of burial fees chargeable in the case of disposing of the ashes after cremation, reference may be made to *Sheffield General Cemetery Co.* v. *Bramley* (1898), 62 J. P. 361.

Removal of bodies.—It is a misdemeanour at common law to remove a body from any burial ground without lawful authority (*R.* v. *Sharpe*, *ante*, p. 475); it is also an offence punishable summarily (20 & 21 Vict. c. 81, s. 25). By the common law a coroner may order a body to be disinterred within a reasonable time after the death, for the purpose of taking an inquisition where none has been taken, or for a further inquisition where the first was insufficient. A Secretary of State may grant a licence for disinterment or removal (20 & 21 Vict. c. 81, s. 25). Although a consistory court may grant a faculty to remove a body from one consecrated place to another, it has no jurisdiction to order the disinterment of a body (*R.* v. *Tristram* (1899), 63 J. P. 391).

Repairing and ornamenting graves.—A burial board granted to R. the right and privilege of constructing a private grave in their cemetery, and the exclusive right of burial and interment therein, "to hold to her in perpetuity for the purpose of burial and of erecting or placing therein a monument or stone"; with a proviso that if such monument or stone, with the appurtenances, should not be kept in repair, according to such regulations as should be made by the board for the management of the cemetery, the grant should be void. She constructed a grave and placed a headstone and a kerb round it, and planted the space with shrubs and flowers. It was held that it was not competent to the board, by a regulation subsequently made by them for the management of the cemetery, to deprive her of the right of planting and ornamenting the grave (*Ashby* v. *Harris* (1868), L. R. 3 C. P. 523; 37 L. J. M. C. 164; 18 L. T. 719; 16 W. R. 869). The grant of a right of burial and the right of erecting any monument, gravestone, tablet, or monumental inscription under the Burial Act, 1852 (15 & 16 Vict. c. 85), does not authorise the placing

upon the grave of a wreath with a glass shade and wire covering to protect it (*McGough* v. *Lancaster Burial Board* (1888), 21 Q. B. D. 323 ; 57 L. J. Q. B. 568 ; 36 W. R. 822 ; 52 J. P. 740). An incumbent of a parish has no legal right to refuse to allow a tombstone to be placed on the grave of a Wesleyan minister describing him as "The Rev. H. K., Wesleyan minister" (*Keet* v. *Smith* (1875), 1 P. D. 73 ; 45 L. J. P. C. 10 ; 33 L. T. 794 ; 24 W. R. 375). An action may be maintained for taking away a tombstone from a churchyard and obliterating an inscription made upon it, by the party by whom it was erected, although the freehold of the churchyard is in the parson ; as the right to a tombstone vests in the person who erects it, or in the heirs of the deceased in whose memory it is set up (*Spooner* v. *Brewster* (1825), 10 Moore, 494 ; 3 Bing. 136 ; 2 C. & P. 34 ; 3 L. J. (o.s.) C. P. 203 ; 28 R. R. 613 ; *Hitchcock* v. *Walter* (1838), 6 D. P. C. 457).

*Memorandum of the Local Government Board on the Sanitary Requirements of Cemeteries.**

42 & 43 Vict. c. 31.

By the Public Health (Interments) Act, 1879, the powers of Sanitary Authorities under the Public Health Act, 1875, are extended to include the acquisition, construction, and maintenance of a place for the interment of the dead, in the Act of 1879 called a cemetery.

Loans for cemetrey purposes.

In cases where the Sanitary Authority propose to defray the cost of establishing a cemetery by means of a loan, the sanction of the Local Government Board becomes necessary (Public Health Act, 1875, s. 233). Among the points considered by the Board in each particular case, before granting their sanction to a loan for the purpose of a cemetery, the question as to whether the proposed site is suitable or unobjectionable from a sanitary point of view will find a place.

The following memorandum has been drawn up in the medical department. It embodies the hygienic principles laid down by various English and foreign authorities as requisite to be observed in the establishment of a cemetery to prevent it from becoming a source of nuisance and danger to the living.

The dangers to the public health to which places of burial may give rise are of two kinds, viz., the contamination (1st) of *air* by the gaseous and volatile, and (2ndly) of *drinking water* by the liquid and soluble, products of decomposition.

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* Eyre and Spottiswoode, 1888. See also Suggestions to Burial Boards, issued by the Secretary of State, included in the Appendix to Brooke Little's Law of Burials (Shaw and Sons).

1. *Contamination of air.*—This may take place in several modes. The gases evolved from putrefying bodies may make their way to the surface through pores or fissures in the ground, or may pass into open graves dug in their neighbourhood. Or they may diffuse themselves laterally through the ground air and be drawn up into the interior of houses. Or noxious emanations may be given off from putrid drainage water, whether baled out of graves and thrown upon the surface, or draining into open channels or watercourses. Thus nuisance and danger to health may be occasioned, not only to gravediggers and persons attending funerals, but also to the inhabitants of houses in the neighbourhood of the burial ground. To obviate these risks it is necessary that the number of decomposing bodies in a given portion of ground should not at any time be so great that the gaseous products cannot be oxidised into harmless substances in the interstices of the soil, or taken up by vegetation; that a sufficient depth of earth intervene between corpses and the surface; and that the soil be of a suitable nature and properly drained, the drainage water being innocuously disposed of. Furthermore, since the atmospheric contamination which has to be especially guarded against is that of the air in the interior and neighbourhood of human habitations and frequented places, it is necessary that the place of burial should be in an open situation and at a sufficient distance from dwellings, in order that any effluvia arising from it may be diluted by diffusion, or dispersed by the winds, so as not to find their way in an injurious state of concentration to places where they will be liable to be inhaled.

Contamination of air from places of burial.

How obviated.

2. *Pollution of water.*—Foul liquids from graves may enter and pollute a stream, or wells in the vicinity of a graveyard may be injured by percolation from it, and in either case, if the water be used for drinking, injury to health may be occasioned. The liability of wells to pollution obviously depends partly upon their proximity to the graveyard and partly upon the configuration and geological structure of the ground. It is necessary, therefore, in order to obviate risk from this cause, that a cemetery should have a suitable soil and be properly drained, and that it should be at a sufficient distance from subterranean sources of water supply, and in such a position with respect to them that the percolation of foul matters from one to the other may be impossible.

Pollution of water.

Sanitary requirements of cemeteries.

The sanitary requirements for a cemetery indicated under the foregoing remarks may be summed up under four headings:

I. Suitable soil, and proper elevation of site.

II. A suitable position, especially with respect to houses and sources of water supply.

III. Sufficient space.

IV. Proper regulation and management.

As to soil.

I. The soil of a cemetery should be of an open porous nature, with numerous close interstices, through which air and moisture may pass in a finely divided state freely in every direction. In such a soil decay proceeds rapidly, and the products of decomposition are absorbed or oxidised. The soil should be easily worked, yet not so loose as to render the work of excavation dangerous through the liability to falls of earth. It should be free from water or hard rock to a depth of at least eight feet. If not naturally free from water, it should be drained in the best manner practicable to a depth below that to which it is intended that graves shall be dug, and it is therefore necessary that the site should be sufficiently elevated above the drainage level of the locality, either naturally, or, where necessary, by filling it up to the required level with suitable earth.

Loam, and sand with a sufficient quantity of vegetable mould, are the best soils; clay and loose stones the worst. A dense clay is laborious to work and difficult to drain; by excluding moisture and air it retards decay, and it retains, in a concentrated state the products of decomposition, sometimes to be discharged into graves opened in the vicinity, or sometimes to escape through cracks in the ground to the surface. A loose stony soil, on the other hand, allows the passage of effluvia. Before fixing on a site the nature of the soil should be ascertained by sinking trial holes to a depth of at least eight feet in several parts of the ground.

As to situation.

II. The situation of a cemetery requires consideration from several points of view, of which the most important is its position with reference to dwelling-houses and to sources of domestic water supply. While public convenience requires that the cemetery shall not be too far distant from the population for which it is intended, a due regard to public health requires that it shall not be dangerously near. The most suitable distance will vary in different cases; it will be greater in the case of a large than of a small cemetery; greater also in the case of a large and rapidly extending town than in that of a small and stationary village.

With regard to the minimum distance which should intervene between burial places and human habitations, the Burial Act of 1855 prescribes that no ground not already used as a cemetery shall be used for burials under that Act, within a distance of one hundred yards from any dwelling-house, without the consent of the owner, lessee, and occupier of such dwelling-house. By section 10 of the Cemeteries Clauses Act, 1847, incorporated with the Public Health (Interments) Act, 1879, it is prescribed that a cemetery provided under those Acts is not to be constructed nearer to any dwelling-house than two hundred yards, except with the consent of the owner and occupiers. In France the prescribed minimum distance of a cemetery from the nearest habitation is one hundred metres (one hundred and nine yards), and it is not lawful without special permission to build any house or dig any well within that distance of an existing cemetery.

It may be taken that a distance of two hundred yards is amply sufficient to prevent any injury arising to health from a well-kept cemetery, so far as regards noxious matters transmitted through the air. It is, however, by no means certain that cemeteries established under the Public Health (Interments) Act will in all cases and at all times be distant so much as two hundred yards from the nearest human habitation. With the consent of the owners and occupiers of existing houses, a cemetery may be established within the prescribed limit; and it is competent to anyone afterwards to erect a new house as near to a cemetery as he pleases. It does not, however, appear that the amount of danger to health to be feared from proximity to a well-kept cemetery is large. Since intramural interment has been abolished, recorded cases of injury to health, or even of nuisance arising from graveyard emanations, whether conveyed by air or water, are extremely rare. Dr. C. A. Cameron (Manual of Hygiene, p. 253) shows that the amount of organic matter deposited yearly in a well-kept cemetery is less than the amount removed from its surface in the form of vegetation, and considerably less than that spread as manure over a cultivated field. There is, therefore, no reason why a cemetery should necessarily be a nuisance, or become a source of danger to the health of those living near it. Nevertheless, in view of the evils which in former times have undoubtedly arisen from the practice of intramural sepulture, and also because the erection of houses near a cemetery interferes with the free play of air around and over it, it is desirable that the site of the cemetery should be in a

neighbourhood in which building is not likely to take place, and also that so far as practicable a belt of ground should be reserved between the graves and the nearest land on which a house may be built, in order to obviate to some extent the risk of contamination of ground air and subsoil water with decomposing matters. This is especially necessary where houses are constructed with cellars. It is, therefore, highly desirable that interments should not be made up to the extreme edge of the cemetery, and it would be possible without great waste of space to reserve in all cases a strip of ground free from interments, fifteen to thirty feet in width, around the whole cemetery on the interior of the boundary fence. This strip would afford room, on the inside, for a gravel or asphalte walk to give access to all parts of the cemetery, and on the outside next the fence to a belt of shrubs or trees, the rootlets of which penetrating the soil would arrest and assimilate any decomposing matters percolating outwards from the cemetery. Obviously a cemetery should not be placed on elevated ground above houses, where the soakings from it may percolate to the sites and foundations of the dwellings below.

Ventilation of mortuary and chapels.

If there be a mortuary or chapel attached to or within the precincts of the cemetery, care should be taken to see that both are efficiently ventilated by permanent openings of adequate size, near or below the floor line for inlet, and in the ceiling for outlet of air. The chapel should be fitted with an iron trelliswork gate in the porch, so that the wooden door may be kept open in fine weather.

Relations of cemetery to water supply.

Relations of cemetery to sources of water supply.—It is evident that the drainage of a cemetery should not be allowed to enter a stream from which water is drawn for domestic purposes.

The degree to which the purity of neighbouring wells is endangered by a cemetery, and the distance to which contamination may extend, obviously depend in each particular case upon the relative elevation of the respective sites of cemetery and well, and upon the nature and dip of the intervening strata, so that it would seem impossible to lay down a standard of distance applicable to all cases. Fissured rock might allow foul matters to traverse considerable distances, while the interposition of a bed of clay or a watertight fault would shut them off, or the passage through an aërated stratum of finely divided earth would oxidise and destroy them on their

way. A dangerous state of things is when graves and wells are sunk near together in a shallow superficial water-bearing stratum of loosely porous nature resting on impervious clay.

It does not appear, however, that the risk to which wells are exposed from the proximity of a properly managed cemetery is in ordinary cases great. A leaky cesspool is a far greater source of danger than a grave. The solid and liquid excretions voided by a human being in the course of a single year amount to several times the weight of his body.

Precautions against pollution.

The precautions to be taken to avoid pollution of wells and springs in the neighbourhood of a cemetery will depend much upon local circumstances; they may be said to be, 1st, the intervention of a sufficient space between the cemetery and the water source; 2ndly, proper drainage, so that the subsoil water of the cemetery shall be conveyed away; and 3rdly, proper management of the cemetery so that the amount of organic matter in one place shall not be more than the soil can dispose of. The English Acts and regulations prescribe no limit of distance from water supplies within which a cemetery is not to be established, but it is to be taken for granted that a site would not be sanctioned if it appeared likely that the purity of existing water supplies would be endangered. Nevertheless, as in the case of the erection of new houses, there is no power to prevent anyone from sinking a well on his own property, as near to a cemetery as he pleases. [Of course, should the well become polluted, it can be dealt with under the provisions of the Public Health Act.] The reservation, free from interments, of a strip of land next the boundary, as before recommended, would be of service in this relation also.

The site of a cemetery should be open and somewhat elevated, so that the wind may blow freely over it; not shut in by hills or close belts of high trees.

Trees, though useful, should not be allowed to become an impediment to the air. For the same reason, as a fence open railings are preferable to high walls.

Unsuitable sites.

Sites are of course unsuitable which are liable to be flooded, or to landslips, or which are in danger of being washed away or encroached upon by streams or the sea. In places where mining operations are carried on, the question of risk of subsidence will have to be considered. Very steep sites are not desirable. The cemetery should be accessible by good roads from all parts of the district.

As to sufficiency of space.

III. *Sufficiency of space.*—On sanitary grounds it is requisite that each corpse shall be surrounded and covered by a mass of earth sufficient to deodorise and destroy the putrid emanations proceeding from it, and also that the total amount of space shall be so great that it may not be necessary to re-open any grave until the soft parts of the body previously interred therein are completely decomposed. On administrative grounds it is requisite that the accommodation provided shall be sufficient to last for the term of years over which the repayment of the loan is spread. On sentimental grounds it is desirable that sufficient space should be reserved that members of the same family may be interred near together. The latter consideration alone is usually sufficiently powerful to render local authorities desirous of providing more than the minimum amount of space.

Time necessary for decomposition.

The length of time necessary to effect complete decomposition of the soft parts of a human body varies (the material of coffins being similar) according to the nature of the soil, being shorter in a porous well-aërated soil, than in one which is either dense and clayey, waterlogged, or surcharged with animal matter. The regulations of the Home Office (followed in the model byelaws for the management of cemeteries recommended by the Local Goverment Board for adoption by sanitary authorities) prescribe that no unwalled grave shall be re-opened within fourteen years after the burial of a person above twelve years of age, or within eight years after the burial of a child under twelve years of age, unless to bury another member of the same family, in which case a layer of earth, not less than one foot thick, shall be left undisturbed above the previously buried coffin; but if on re-opening any grave the soil be found to be offensive, such soil shall not be disturbed, and in no case shall human remains be removed from the grave.

Size of grave spaces.

The size of grave spaces (*i.e.*, of the plots of ground, each to contain one grave, into which the cemetery is to be divided) prescribed by the Home Office is nine feet long by four feet broad = four square yards, for an adult, and for a child under twelve, two square yards, viz., either four and a half feet by four feet, or six feet by three feet. These sizes, which are conveniently commensurate with one another, may be recommended to sanitary authorities for general adoption.* They allow,—on the assumption that the size of the grave (*i.e.*, the

* See footnote, p. 487.

hole dug for the reception of the body) of an adult is seven feet by two feet,—the retention of a strip of undisturbed ground about two feet in width between every two adjacent graves. In any case it is important that each grave should be at least a foot distant from the nearest grave on every side, not only to prevent the passage of effluvia into the open grave from decomposing bodies in the adjoining graves, but also to avoid the danger of falls of earth, which may happen if excavations are made too near to ground which has been previously disturbed.

Requirements of population.

The amount of space required for each 1,000 population will vary to some extent with the death-rate; but where the mortality is high, a larger proportion of the deaths will be those of persons under twelve. More space will be required for an increasing than for a stationary population. Taking average numbers, in a stationary population of 1,000 there will be rarely more than twenty-two deaths per annum, of which about eight will be of persons under twelve years old, and fourteen of persons above that age. For the interment of the persons above twelve, $14 \times 4 = 56$ square yards of ground will be required yearly, and as these grave spaces will not be again available, if the above-quoted rule be observed, until after the lapse of fourteen years, at least 784 square yards must be provided for them. Similarly for children under twelve, $8 \times 2 \times 8 = 128$ square yards at least will be required; making a total of 912 square yards. The necessary paths and buildings usually occupy at least a sixth of the surface. We thus get a minimum allowance of 1,064 square yards, or, say, a quarter of an acre (1,210 square yards) per 1,000 inhabitants, which is the usually estimated minimum for fourteen years. The desirability, however, of providing more than a bare minimum of space is obvious, and is generally recognised.

If the suggestion previously made in this memorandum be adopted, to leave a strip free from graves fifteen or more feet in width, around the interior of the cemetery wall, a somewhat larger amount of land will be required. The proportion will vary with the size and shape of the plot of land to be used as a cemetery. Thus a strip fifteen feet wide around an acre of land, if the plot be square (*i.e.*, sixty-nine and a half yards in the sides), will take up 1,290 square yards, or rather more than a fourth; if the plot be rectangular, 55×88 yards, a belt fifteen feet wide will require 1,330 yards. This belt may, however, be utilised for paths and shrubberies.

Effects of soil on decomposition.

The length of time for which cemetery provision on the above scale will remain available will depend upon the nature of the soil, the mode of interment, the depth of graves, and other circumstances. In an open soil, if an adult body* be buried in an ordinary wooden coffin, at the end of fourteen years the coffin and the softer parts of the corpse may be found completely decayed, only the larger bones remaining, and the coffin collapsed so as to occupy a vertical space only a few inches in thickness. The grave may then be re-opened nearly to its original depth, without disturbing the remains of the body previously interred. Thus, if the grave be made originally, say, eight feet in depth, a number of burials may be made in it before it becomes so full of bones as to be unfit for further use. In a dense clay soil, on the other hand, coffins are found intact after having been buried thirty years or more. As the thickness of a coffin is about fifteen inches there would not in a grave eight feet deep in such a soil be room for more than two interments if the rules to leave a foot of earth between any two coffins in the same grave and not to bury within four feet of the surface be observed; for after two interments and two intervals of fourteen years the grave would be filled to four feet six inches from the surface by the two coffins still undecomposed and the intervening layer of earth.

If graves can be made deeper so as to hold more coffins, the cemetery will of course take longer to fill. In wealthy districts, in which many family graves are likely to be purchased, the cemetery will not be available so long as in a poor district, in which most of the burials are in common graves; much of the ground in the first case being appropriated though not filled. Bodies buried in walled graves occupy the ground permanently, and do not by their decay make room for others.

Register of graves.

It is necessary, both for the carrying out of a proper system as regards the re-opening of graves, and also to enable the place of burial of any particular person to be identified, if desired, that so much of the cemetery as is to be used for interments should be divided into numbered grave spaces, and that a register of graves should be kept, in which the name, age, and date of burial of the person or persons interred in each shall be duly recorded. The grave spaces should be distinguished by appropriate marks (which may conveniently

* The bodies of children under like circumstances decay more rapidly than those of adults.

consist of a number at the ends of each longitudinal row of graves, and a letter at the ends of each transverse row, or *vice versâ*), and their position should also be marked on a plan. This is obligatory under s. 41 of the Cemeteries Clauses Act, 1847, for burial places in which an exclusive right of burial has been granted, and it is desirable, for the reasons above given, that all grave spaces should be similarly distinguished.

IV. Byelaws may be made by local authorities for the management of cemeteries provided by them under the Public Health (Interments) Act . . . Byelaws.

The regulations issued by the Secretary of State for the Home Department for burial grounds provided under the Burial Acts are . . . appended to this memorandum . . .

August, 1888.

Regulations for Burial Grounds provided under the Acts 15 & 16 *Vict. c.* 85; 16 & 17 *Vict. c.* 134; 17 & 18 *Vict. c.* 87; 18 & 19 *Vict. c.* 128; *and* 20 & 21 *Vict. c.* 81.*

1. The burial ground shall be effectually fenced, and, if necessary, under-drained to such a depth as will prevent water remaining in any grave or vault.

2. The area to be used for graves shall be divided into grave spaces, to be designated by convenient marks, so that the position of each may be readily determined, and a corresponding plan kept on which each grave-space shall be shown.

3. The grave spaces for the burial of persons above twelve years of age shall be at least nine feet by four feet, and those for the burial of children under twelve years of age, six feet by three feet,† or, if preferred, half the measurement of the adult grave space, namely, four and a half feet by four feet.

4. A register of graves shall be kept, in which the name and age of the persons buried in each grave, and the date of each interment shall be duly registered.

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* As reprinted, 1899.

† "It will be noticed that these dimensions are conveniently commensurate with each other; that the length of two large grave spaces is equal to that of three small ones, and in breadth three large ones equal four small ones; thus, the space occupied by six large grave spaces, namely, eighteen feet long by twelve feet wide, may be divided into twelve small grave spaces in three rows of four each, or the reverse. This coincidence simplifies the laying out of the ground." (Suggestions to Burial Boards issued by the Secretary of State.)

5. No body shall be buried in any vault or walled grave unless the coffin be separately entombed in an air-tight manner; that is, by properly cemented stone or brick work, which shall never be disturbed.

6. One body only shall be buried in any common earthern grave at one time, unless the bodies be those of members of the same family.

7. No unwalled family grave shall be re-opened within fourteen years after the burial of a person above twelve years of age, or within eight years after the burial of a child under twelve years of age, unless to bury another member of the same family; in every case a layer of earth not less than one foot thick shall be left undisturbed above the previously buried coffin; but if, on re-opening any grave, the soil is found to be offensive, such soil shall not be disturbed, and in no case shall human remains be removed from the grave.

8. No coffin shall be buried in any unwalled grave within four feet of the ordinary level of the ground, unless it contains the body of a child under twelve years, when it shall not be less than three feet below that level.

SERIES XIV.—CEMETERIES.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for draft forms on which to submit the byelaws for the Board's preliminary approval before they are adopted by the local authority.*]

BYELAWS

MADE BY THE * WITH RESPECT TO THE MANAGEMENT OF A CEMETERY PROVIDED BY THEM, AND CHARGES FOR THE USE OF THE SAME.

Interpretation

1. In the construction of these byelaws the following words and expressions shall have the meanings herein-after respectively assigned to them, unless such meanings be repugnant to or inconsistent with the context or subject matter in which such words or expressions occur; that is to say,

"The Council" means the * ;

"The cemetery" means the cemetery provided by the council, and situate at † ;

"Grave" means a burial-place formed in the ground by excavation and without any internal wall of brickwork or stonework or any other artificial lining;

"Vault" includes underground burial-places of every description, except graves to which the word "grave" interpreted as aforesaid applies.

Interpretation of terms.—It will be noticed that the term "grave," as used in the model byelaws, is strictly limited to unwalled graves. Any kind of walled grave is subject to the provisions affecting "vaults," as is the case under the regulations of the Home Secretary for burial grounds provided under the Burial Acts.

Structure vaults.

2. Every person who, in any part of the cemetery, causes a vault to be built for use as a burial-place, shall cause the vault

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* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or*, "Urban [*or* Rural] District Council of "; *as the case may be.*

† *Indicate the situation of the cemetery.*

to be enclosed with walls constructed of good bricks, stone or other hard and suitable material, properly bonded and solidly put together:

(*a.*) With good mortar compounded of good lime and clean sharp sand or other suitable material; or

(*b.*) With good cement; or

(*c.*) With good cement mixed with clean sharp sand.

Structure of vaults.—This clause regulates only the construction of the enclosing walls of a "vault" as defined by the byelaws. It should be read in connection with clause 9, which provides for each coffin which is placed in the vault being embedded in cement, concrete, or enclosed in a separate cell constructed as therein mentioned. Clause 2 is similar in effect to clause 11 of the model series as to new streets and buildings, the notes on which (p. 110), may be referred to. It may be pointed out that the clause only requires the vault to be "enclosed with" (not "built of") walls constructed as prescribed by the byelaw. "Party walls," then, may be allowed between vaults.

Not more than one body to be buried in a grave at one time unless belonging to same family.

3. A person shall not, in any part of the cemetery, except as is herein-after provided, cause or suffer more than one body to be buried at any one time in a grave in respect of which no exclusive right of burial has been granted by the Council:

Provided that this byelaw shall not be deemed to prohibit the burial at any one time in any such grave of two or more bodies of persons who were members of the same family.

Burial in graves.—Clause 3 of the model series follows the regulation on the same subject prescribed by the Home Secretary for burial grounds provided under the Burial Acts. (See p. 488.)

Re-opening of graves.

4. In every case where, in any part of the cemetery, the body of a person whose age at the time of death did not exceed *twelve years* has been buried in a grave in respect of which no exclusive right of burial has been granted by the Council, a person shall not, at any time within a period of *eight years* after the date of the burial of the body, cause or suffer the grave to be opened for the purpose of burying therein the body of a person who was not a member of the family of which a person whose body has already been buried in the grave was a member.

5. In every case where, in any part of the cemetery, the body of a person whose age at the time of death exceeded *twelve years* has been buried in a grave in respect of which no

exclusive right of burial has been granted by the Council, a person shall not, at any time within a period of *fourteen years* after the date of the burial of the body, cause or suffer the grave to be opened for the purpose of burying therein the body of a person who was not a member of the family of which a person whose body has already been buried in the grave was a member.

Re-opening of graves.—In the memorandum of the Local Government Board on the sanitary requirements of cemeteries (see pp. 478—487), it is pointed out that on sanitary grounds it should not be necessary to re-open any grave until the soft parts of the body previously interred therein are completely decomposed. It is stated that, "in an open soil, if an adult body be buried in an ordinary wooden coffin, at the end of fourteen years the coffin and the softer parts of the corpse may be found completely decayed, only the larger bones remaining, and the coffin collapsed so as to occupy a vertical space only a few inches in thickness. The grave may then be re-opened nearly to its original depth without disturbing the remains of the body previously interred." The bodies of children, under like circumstances, decay more rapidly than those of adults. "In a dense clay soil . . . coffins are found intact after having been buried thirty years or more." The above clauses, so far as they affect "graves," apply only to common graves. As a matter of health there is obviously no less reason for allowing a second burial in the same grave, within the period of eight or ten years, in the case of persons not of the same family, than for permitting the grave to be re-opened within that period to receive the body of a person who did belong to the family; but the clause has the merit of providing means whereby persons, too poor to purchase graves, may yet be enabled to secure (practically) that the grave in which a deceased member of their family has been buried shall be reserved to the family for the period referred to. Thus, the natural wishes of relatives are respected, and the number of cases in which graves can be re-opened before decomposition is completed is reduced to a minimum, having regard to the sentiment involved.

6. A person shall not, in any part of the cemetery, cause or suffer the body of a person whose age at the time of death did not exceed *twelve years* to be buried in a grave in such a manner as to require or allow any part of the coffin containing the body to be placed at a less depth than *three feet* below the level of the surface of the ground adjoining the grave. Depth of graves.

7. A person shall not, in any part of the cemetery, cause or suffer the body of a person whose age at the time of death exceeded *twelve years* to be buried in a grave in such a manner as to require or allow any part of the coffin containing the body to be placed at a less depth than *four feet* below the level of the surface of the ground adjoining the grave.

Separation of coffins.

8. A person shall not, in any part of the cemetery, cause a body to be buried in a grave otherwise than in such a manner as to provide by means of a sufficient layer or layers of earth, which shall throughout be closely rammed down and be not less than *one foot* in thickness, for the effectual separation of the coffin containing the body from any coffin already placed in the grave.

Further provisions as to burial in graves.—Clauses 6, 7, and 8 are based on regulations Nos. 7 and 8 of the Home Secretary for burial grounds under the Burial Acts. (See p. 488.) The clauses are designed to secure that each coffin "shall be surrounded and covered by a mass of earth sufficient to deodorise and destroy the putrid emanations proceeding from it." (Memorandum of Local Government Board on the Sanitary Requirements of Cemeteries (p. 483).) With the same object, no part of any grave should be nearer than one foot to any other grave, otherwise effluvia from decomposing corpses in the adjoining graves may pass into the grave when opened, occasioning nuisance, as well as danger to health. A lateral space of at least one foot between graves is also necessary to avoid the danger of falls of earth which may occur when graves are dug too close together. Clauses 6—8, it will be seen, apply to all "graves" within the meaning of the byelaws, whether common graves, or private graves.

Closing of vaults after burial.

9. Every person who, in any part of the cemetery, buries a body in a vault shall, within a period of *twenty-four* hours after the deposit in the vault of the coffin containing the body, cause the coffin to be wholly and permanently embedded in and covered with a layer or layers of good cement concrete, not less in any part than *six inches* in thickness, or to be wholly and permanently enclosed in a separate cell or receptacle which shall be constructed of slate or stone flagging not less than *two inches* in thickness, properly jointed in cement, or of good brickwork in cement, and in such a manner as to prevent, as far as may be practicable, the escape of any noxious gas from the interior of the cell or receptacle.

Closing of vaults.—The regulations of the Home Secretary provide that every coffin which is deposited in a vault or walled grave, within any burial ground provided under the Burial Acts, shall be "separately entombed in an air-tight manner; that is, by proper cemented stone or brickwork, which shall never be disturbed." The object of clause 9, like that of the three preceding clauses, is the prevention of the contamination of the air in and about the cemetery by gaseous and volatile products of decomposition. This "nuisance and danger to health may be occasioned, not only to grave-diggers and persons attending funerals, but also to the inhabitants of houses in the neighbourhood of the burial ground." (Memorandum of the Local Government Board on the Sanitary Requirements of Cemeteries (p. 478).) The Home Office Suggestions to Burial Boards * describe the arrangement

* See Brooke Little's Law of Burials (Shaw and Sons).

generally adopted as consisting in a flag or slab of stone being placed upon a ledge in the wall immediately over each coffin, and closely cemented down, to be never raised again. It is stated that "when this plan is adopted decay is much retarded, the gaseous products escape very gradually through the pores of the cement and brickwork; they are to a great extent decomposed, and appear to be diffused as fast as they escape; for when such vaults are opened the space above the slab covering the coffin is found free from offensive air. This method is not only cheaper, but safer, than the use of lead coffins, which are often not air-tight, sometimes burst, and are liable to be broken. Cases of such accident have occurred when the coffin has been air-tight, and has confined putrid gas in a highly concentrated and dangerous state—very serious and even fatal injury having been sustained by those who were near when the coffin was broken; and very frequently vaults containing bodies enclosed in lead, are found to be offensive when opened for a subsequent burial, to avoid which, it is not uncommon to leave openings for the escape of such foul air, to the evident risk of those who may go near them."

Turfing, etc. of graves after burial.

10. Every person who, in any part of the cemetery, buries a body in a grave in respect of which an exclusive right of burial has been granted by the Council shall, as soon as conveniently may be after the lapse of such a period as may reasonably suffice for the natural subsidence of the earth with which the grave has been filled up, cause the surface of the grave to be properly covered with fresh turf, or with any gravestone or monument which, in pursuance of any grant by the Council, may lawfully be erected or placed on the grave, or shall cause the surface of the grave to be planted with shrubs or with other suitable vegetation.

Turfing, etc., of graves.—The provisions of this clause affect only private graves. It appears to be authorised by the general terms of s. 141 of the Public Health Act, 1875, as extended by the Act of 1879. With regard to common graves, the turfing, etc. should be undertaken by the local authority.

Misconduct in cemetery.

11. A person shall not, in any part of the cemetery, by any violent or indecent behaviour, prevent, interrupt, or delay the decent and solemn burial of any body.

Misconduct in the cemetery.—The expression "indecent behaviour" as used in this byelaw appears to be applicable to any behaviour which is not decent, having regard to the uses to which the ground is applied, and not merely to "indecency" as usually understood. The byelaw only applies where violent or indecent behaviour prevents, interrupts, or delays the decent and solemn burial of a body. Wilful and unlawful disturbance of persons assembled in the cemetery for the purpose of burying a body is dealt with in s. 59 of the Cemeteries Clauses Act, 1847. The same section also prohibits the playing of games or sports, the discharge of firearms (save at a military funeral), and the commission of nuisances within the cemetery. By s. 38 the council

are required to make regulations for ensuring that all burials within the cemetery are conducted in a decent and solemn manner. These regulations are not enforceable by penalties.

Penalties.

12. Every person who offends against any of the foregoing byelaws shall be liable for every such offence to a penalty of *five pounds*, and in the case of a continuing offence to a further penalty of *forty shillings* for each day after written notice of the offence from the Council:

Provided, nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence, may, if they think fit, adjudge the payment as a penalty of any sum less than the full amount of the penalty imposed by this byelaw.

Recovery of penalties.—As to the recovery of penalties incurred under the byelaws, see s. 251 of the Public Health Act, 1875, and notes thereon in Lumley's Public Health, 5th ed., p. 333. Where, under s. 2 of the Public Health (Interments) Act, 1879, the local authority provide a cemetery outside their district, the provisions of s. 253 of the Act of 1875 will apply so as to require proceedings for offences against the byelaws to be taken by the local authority of the district in which the cemetery is situated.

Charges for use of cemetery.

13. Every person who in any part of the cemetery buries a body in a grave for which no exclusive right of burial has been granted, shall pay to the Council as a charge for the use of the cemetery a sum which shall be determined by such of the several regulations herein-after contained as may be applicable to the circumstances of the case, that is to say,

	s.	*d.*
For the burial,—		
(*a.*) Of the body of a stillborn child - - -		
(*b.*) Of the body of a person whose age at the time of death did not exceed *years* - -		
(*c.*) Of the body of a person whose age at the time of death exceeded *years* - - -		

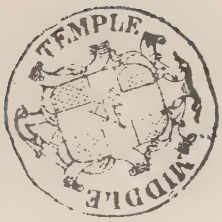
Charges for the use of the cemetery.—The Local Government Board have expressed the opinion that it is only charges for interments in common graves for which their approval is required. "*Twelve years*" is the age usually inserted in paragraphs (*b*) and (*c*) of the above clause.

The charges prescribed by the byelaws must be uniform. There is no authority for prescribing a higher fee for the burial of persons who are not inhabitants of the district, than for the burial of inhabitants. The question whether persons who are not inhabitants can be buried in any part of the cemetery in respect of which no exclusive right of burial has been granted to an inhabitant is, moreover, one as to which some doubt may be entertained.

Repeal of Byelaws.

14. From and after the date of the confirmation of these byelaws the byelaws with respect to the management of the cemetery and charges for the use of the same which were made by the on the day of in the year one thousand eight hundred and , and were confirmed by the Local Government Board on the day of in the year one thousand eight hundred and , shall be repealed. Repeal.

Repeal.—If there are any byelaws relating to the cemetery which the Council are desirous of repealing, the blank spaces in this clause should be filled, and the clause added to the series.



SERIES XV.

MORTUARIES.

MORTUARIES.

MEMORANDUM.

By section 141 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), it is enacted as follows:— 38 & 39 Vict. c. 55, s. 141.

"Any Local Authority may, and if required by the Local Government Board shall, provide and fit up a proper place for the reception of dead bodies before interment (in this Act called a Mortuary), and may make byelaws with respect to the management, and charges for use of the same; they may also provide for the decent and economical interment, at charges to be fixed by such byelaws, of any dead body which may be received into a Mortuary."

The next section (142) is in these terms:— 38 & 39 Vict. c. 55, s. 142.

"Where the body of one who has died of any infectious disease is retained in a room in which persons live or sleep, or any dead body which is in such a state as to endanger the health of the inmates of the same house or room is retained in such house or room, any justice may, on a certificate signed by a legally qualified medical practitioner, order the body to be removed, at the cost of the Local Authority, to any Mortuary provided by such authority, and direct the same to be buried within a time to be limited in such order; and unless the friends or relations of the deceased undertake to bury the body within the time so limited, and do bury the same, it shall be the duty of the relieving officer to bury such body at the expense of the poor rate, but any expense so incurred may be recovered by the relieving officer in a summary manner from any person legally liable to pay the expense of such burial.

"Any person obstructing the execution of an order made by a justice under this section shall be liable to a penalty not exceeding five pounds."

With regard to the enactments above cited, it is to be observed that they are intended to meet the requirements of all cases in which a Mortuary is used, whether voluntarily or compulsorily. It is, however, chiefly in relation to those cases where the Mortuary is used otherwise than in pursuance of an order of a justice under section 142, that it is important to consider to what extent Sanitary Authorities should avail themselves of their power of making byelaws, and also by what other means they may provide for the efficient management of the Mortuary, and for the removal and reception of the dead with least danger to the living.

Use of mortuary should be encouraged.

It cannot be doubted that, apart from such cases as would come within the operation of section 142, there are many instances in which manifest benefit would result from the use of the Mortuary for the reception of the dead during the period preceding burial. In the interests of the public health, it is clearly desirable that those who might otherwise seek permission to remove a corpse to the Mortuary should not be deterred by regulations of undue stringency, or by any apparent disregard of care and decency in the internal arrangements or management of the building.

Necessity of good administrative arrangements.

It is quite possible that at some future time, when the voluntary use of Mortuaries may have become more general than at present, Sanitary Authorities may find it expedient to exercise more fully their power of making byelaws under section 141. Under existing circumstances, however, it appears to the Board that Sanitary Authorities may be advised to rely upon good administrative arrangements rather than upon byelaws for the proper management of their Mortuaries. For certain purposes byelaws will doubtless be necessary in most districts for which Mortuaries have been provided. To such purposes the clauses comprised in the accompanying model series of byelaws have reference.

Matters dealt with in model clauses.

The [second] and [third] of these clauses are designed to secure the removal of the corpse for burial within a specified period. The [fourth] and [fifth] clauses are intended for the prevention of misbehaviour. The [sixth] clause has been framed with the view of requiring undertakers to convey empty shells from the premises without delay.

With regard to the [second] and [third] clauses, it may be well to point out that byelaws in these terms will not be operative in any case where a corpse has been removed to the Mortuary in pursuance of a justice's order under section 142. In such a

case, the limitation of the time within which the corpse is to be buried is a matter for which the justice is expressly authorised to give the necessary direction.

Removal of corpses for burial.

In other cases, however, it is important that the Sanitary Authority should have the power of enforcing the removal of corpses after a sufficient interval. Ordinarily, it may be assumed that there will be no difficulty in securing compliance with the requirements of this byelaw. The person who has obtained permission to use the Mortuary for the reception of the corpse will, in the majority of instances, be in a position to provide for its removal within the prescribed time. But it may be well to draw attention to the fact that the provision in section 142, which requires the relieving officer, in default of the friends or relations of the deceased, to bury at the expense of the poor rate, is confined to cases where the removal of the body to the Mortuary has been ordered by a justice and he has directed the burial to take place within a limited time.

Powers of boards of guardians.

With reference to other cases, it is to be observed that, although the 7 & 8 Vict. c. 101, s. 31, empowers the Board of Guardians to bury, at the cost of the poor rate, the body of any poor person which may be within their parish or union, there is no obligation upon them to incur this expense unless the body is lying in the workhouse or on premises belonging to the guardians. If, therefore, the body of a poor person has been received in the Mortuary it by no means follows that the guardians or their duly authorised officer could be rendered responsible for the observance of the byelaw prescribing the period within which the body must be removed. It is possible that cases may occur where this responsibility may attach to the guardians or their officer in consequence of the directions which they may have given in pursuance of the enactment above-mentioned, and in all such cases the guardians or their officer, on being informed of the requirements of the byelaws, would no doubt take steps to ensure compliance with those requirements. Where, however, the cost of burial is only partially defrayed out of the poor rates, the Sanitary Authority, in dealing with an application for permission to use the mortuary, may sometimes find it necessary to ascertain that the applicant is, either voluntarily or by obligation, in a position to control the arrangements with regard to the burial, and may therefore, in the event of permission to use the Mortuary being granted at his request, be held liable for neglect to comply with the byelaw limiting the time within

which the body should be removed. But upon the whole, it may be reasonably expected that the instances in which the Sanitary Authority may deem it incumbent upon them to enforce the byelaws as to the removal of bodies will be extremely rare.

The Sanitary Authority will probably find that the practical questions requiring consideration in connection with any mortuary which they may provide will chiefly relate to (1) the selection of a suitable site and structure, and (2) the adoption of such administrative arrangements as will best serve the purpose of inducing persons to avail themselves of the facilities afforded by the Mortuary for the safe and decent keeping of the dead during the interval before interment.

Upon these points, the Board have to offer the following suggestions.

1. *As to site and structure.*

Suggestions as to site and structure of mortuary.

In the choice of a site, care should be taken to ensure that the buildings to be erected thereon shall, as far as practicable, be isolated and unobtrusive. It may, indeed, be desirable to place the buildings on the site in such a position and manner as to admit of their being concealed from public view until the entrance gate to the premises has been passed.

The buildings should be substantial structures of brick or stone. In their external appearance attention should be paid to such architectural features as may serve to convey the impression of due respect for the dead.

Every chamber intended for the reception of corpses should be on the ground or basement floor.

In addition to such chambers, the premises should, if possible, comprise:

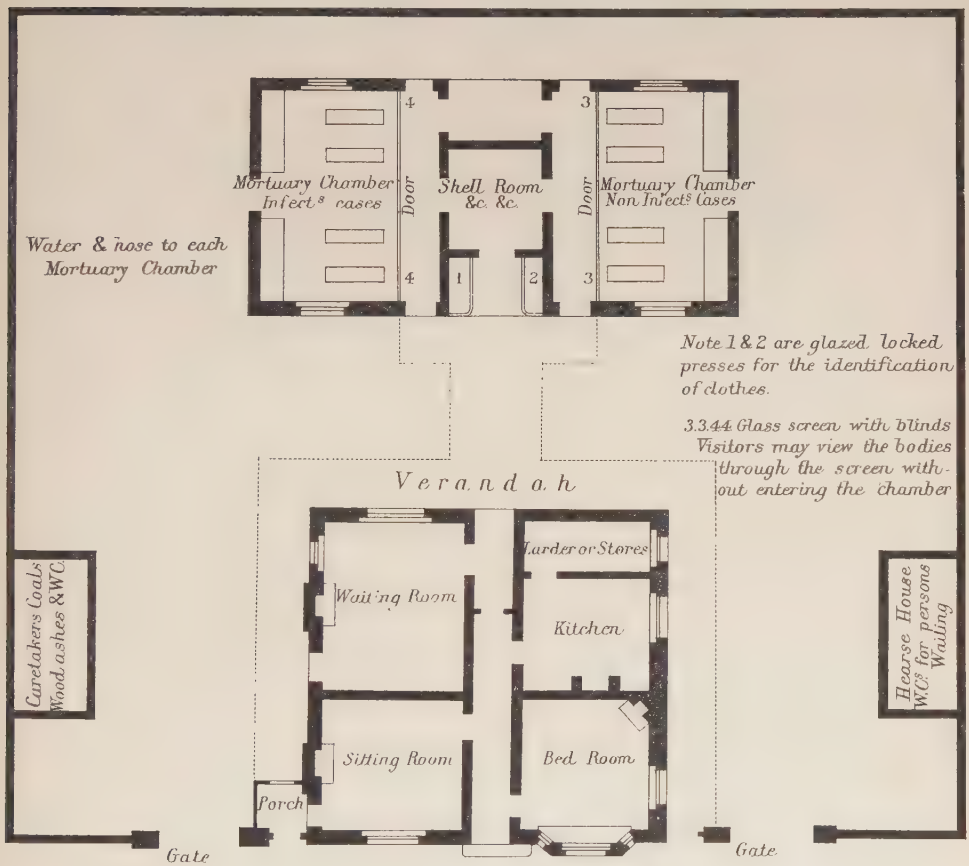
(*a.*) A waiting room for visitors to the Mortuary and for the use of mourners assembling there for funeral purposes;

(*b.*) A caretaker's dwelling-house; and

(*c.*) A shed or outhouse for the keeping of shells or other necessary appliances.

For these and other structural arrangements provision may be made in the manner indicated in the plan appended to this memorandum.

MORTUARY FOR TOWN OF 100,000 INHABITANTS.



GROUND FLOOR PLAN.
Twentieth Scale

In the construction of each chamber intended for the reception of the dead, care should be taken to ensure convenience, decency, cleanliness, and coolness.

The chamber should be lofty and the area of its floor sufficient to allow freedom of movement between the slabs or tables on which the dead are to be placed.

There should be a ceiling to the chamber, or, if it be open to the roof, there should be a double roof with a space of eight inches at least between the outer and inner covering or with the addition of an intervening layer of felt.

Louvres or air-gratings under the eaves will be the best means of ventilation.

The chamber should, if practicable, be lighted by windows on the north side. If it is necessary to place windows on the south, east, or west sides, external louvre blinds should be provided for the windows.

The floor should be paved evenly and closely. The material used may be stone or slate; but a uniform cement floor is preferable.

Water should be laid on so as to be drawn from a tap within the chamber.

Shelves which may be conveniently placed around the interior of the chamber, and tables which may occupy any part of its area should preferably be made of slate slabs. If stone is used it should be smoothed on the upper surface and free edges.

The shelves and tables should be placed so that their upper surfaces may be at a height of two and half feet or of not more than three feet above the floor.

The ceiling and the internal surface of the walls should be whitewashed. The outside of the roof should also be whitened.

The entrance to the chamber should be direct, without the intervention of any passage.

The number of chambers should be at least two, so that one may be appropriated exclusively for the bodies of persons who have died of infectious disease, and the other for the bodies of persons whose death has been due to other causes. It may be expedient to place these chambers as far apart as may be practicable, so that persons visiting the chamber used for the reception of the bodies of those who have died of non-infectious disease may have no reason to fear infection.

2. *As to administrative arrangements.*

Suggestions as to administrative arrangements.

No obstacle or difficulty should be placed in the way of receiving a body at any hour of the day or night. To obviate unnecessary applications for reception at night, it will probably be found sufficient to affix to the entrance gate a notice requesting persons to abstain, except in cases of emergency, from applying for the admission of bodies during certain specified hours of the night.

A caretaker should reside upon the premises, and his duties should comprise the general management of the mortuary, the maintenance of cleanliness, decency, and good order, and the keeping of such books or registers as the regulations of the Sanitary Authority may prescribe.

It will probably be found expedient to require the caretaker, in the case of each corpse received upon the premises, to ascertain and record the following particulars, namely:

(*a.*) Christian name and surname of the deceased;

(*b.*) Sex;

(*c.*) Age;

(*d.*) Cause of death;

(*e.*) Number of house and name of street or other description of the place whence the body has been brought to the Mortuary;

(*f.*) Name and address of the person by whose order the body has been brought to the Mortuary; and

(*g.*) Date of the removal of the body for burial.

It should, however, be clearly understood by the caretaker, that he would not be justified in refusing to admit a corpse on the ground that these particulars cannot be given at the time when the application for admission is made to him.

A sufficient number of shells of different sizes should be kept at the Mortuary in charge of the caretaker, and he should be empowered to lend them to undertakers or other responsible persons for the conveyance of bodies to the Mortuary.

The shells when not in use should be kept in a shed or other suitable place.

Each shell should be constructed of strong wood, painted externally. The interior of the shell and the inner surface of is cover should be lined with tinned copper.

Each shell after being used and before being deposited in the shed or other place of storage should be thoroughly cleansed by the caretaker.

No dead body should be received upon the premises unless it is enclosed in a shell or coffin.

JOHN LAMBERT,
Secretary.

Local Government Board,
25th July, 1882.

Authorities competent to adopt the model byelaws.—Section 141 of the Public Health Act, 1875, authorising the making of byelaws with respect to a mortuary, applies to "any local authority," whether urban or rural, by which a mortuary has been provided under this enactment. The section does not apply to a mortuary provided under the Burial Acts. Where necessary, the Local Government Board may "require" the local authority to provide and fit up a mortuary, but the making of byelaws is not compulsory in any case; and it appears from the foregoing memorandum that the matters which can usefully be dealt with by means of byelaws in this connection, are, in the opinion of the Local Government Board, very few in number.

Scope of the model byelaws.—The terms of the enactment above mentioned would not only authorise byelaws as to the management of the mortuary, but also byelaws fixing charges for the use of the mortuary and for the decent and economical interment (presumably by the local authority) of any dead body which may be received into the mortuary. The Local Government Board, however, have framed no model clause fixing charges for the use of the mortuary, or for the interment of bodies received therein; and, as pointed out in their memorandum, the only clauses as to the management of the mortuary which they suggest, deal with the removal of bodies for burial within a limited time after death, the conduct of persons frequenting the mortuary, and the removal of empty shells from the mortuary premises. Experience has served to confirm the view that byelaws are less needed in the case of a mortuary than good administrative arrangements; and although the mere fact that byelaws enforceable by penalties have been made, and can be invoked if required, should render it the more easy for the caretaker to perform his duties, yet the chief reliance should in every case be upon the exercise by that officer of a vigilant supervision. The time when the value of mortuaries may be so recognised that the public more or less generally will be willing to pay "charges for the use of the same" is yet in the future; and it seems impossible to suggest that at the present date, any more than in 1882 when the model series was first issued, any good purpose would be served were local authorities to more fully exercise their power of making byelaws under s. 141 of the Public Health Act, 1875, than is suggested to them by this model code.

Provision of room for post-mortem examinations.—Under s. 143 of the Public Health Act, 1875, any local authority may provide and maintain a proper place for the reception of dead bodies during the time required to conduct any *post-mortem* examination ordered by the coroner, or other constituted authority; and s. 24 of the Coroners Act, 1887 (50 & 51 Vict. c. 71),

empowers the coroner, where a *post-mortem* room has been provided under this enactment, to order the removal of a dead body to and from such room for carrying out the examination. It is most desirable that these examinations should be made as little as possible in private houses ; but it should be pointed out that no *post-mortem* room can be provided by the local authority "at a mortuary." The intention of course, is obvious. It was desired to encourage the use of mortuaries, and it was thought that the proximity of a *post-mortem* room to a mortuary might induce a suspicion in the minds of poor persons that dead bodies deposited in the mortuary, pending interment, were liable to be subjected to anatomical examination. In the case of London, however, the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 90 (2), now permits of the provision of a *post-mortem* room "in connection with" a mortuary, although no *post-mortem* examination may be conducted within the mortuary. The regulations with respect to the management of the *post-mortem* room, which the local authority are authorised to make by s. 143 of the Public Health Act, 1875, do not require the confirmation of the Local Government Board (see s. 188 of the Act).

Mortuaries apart from the Public Health Acts.—It may be added that where the court was of opinion that it was requisite for the health of a parish that a mortuary should be provided, and also that the churchyard was the most suitable site for its erection, it decided that it had jurisdiction to grant a faculty for the erection of a mortuary on a portion of the churchyard, with a room to be appropriated to *post-mortem* examinations (*Hansard* v. *St. Matthew, Bethnal Green* (1878), 4 P. D. 46). The rector, churchwardens, and burial board of an urban parish applied for the grant of a faculty to authorise the erection of a parochial mortuary with a *post-mortem* room attached, in a consecrated burial ground situated in a populous part of the parish, and closed for burials by Order in Council. The court, being of opinion that the petitioners had made out their case for the establishment of a mortuary on the site proposed, directed that a faculty should issue for the erection of the mortuary (*St. George's, Hanover Square* (*Rector, etc. of*) v. *Hall and Another* (1879), 5 P. D. 42). It should be noted that it is now provided by the Disused Burials Act, 1884 (47 & 48 Vict. c. 72), that it shall not be lawful to erect any buildings upon any disused burial ground, except for the purpose of enlarging a church, chapel, meeting-house, or other place of worship.

A burial board may provide a mortuary under s. 42 of the Burial Act, 1852 (15 & 16 Vict. c. 85), and where a parish council is the authority for the execution of the Burial Acts in a rural parish this power may be exercised by them (Local Government Act, 1894, s. 7).

SERIES XV.—MORTUARIES.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for a draft form on which to submit the byelaws for the Board's preliminary approval, before they are adopted by the local authority.*]

BYELAWS

MADE BY THE* WITH RESPECT TO THE MANAGEMENT OF A MORTUARY IN THE† .

1. Throughout these byelaws the expression "the Council" means the* . Interpretation.

2. Every person who, in pursuance of permission obtained from the Council, has caused the body of one who has died of an infectious disease to be deposited in the Mortuary shall cause the body to be removed therefrom for the purpose of interment within a period of *days* from the date of death. Removal of bodies for burial.

3. Every person who, in pursuance of permission obtained from the Council, has caused the body of one who has died of a non-infectious disease to be deposited in the Mortuary shall cause the body to be removed therefrom for the purpose of interment within a period of *days* from the date of death.

Removal of bodies for burial.—It will be seen that these two clauses deal with the removal from the mortuary of the dead bodies respectively of persons who have died of infectious disease, and of those who have died of non-infectious disease. With regard to these clauses, it seems necessary only to refer to the remarks contained in the memorandum issued by the Local Government Board with the model series (pp. 500—502). The period within which bodies should be required to be removed from the mortuary should not exceed *five days* in non-infectious cases, and *three days* in infectious cases, from the date of death.

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* "Mayor, aldermen, and burgesses of the borough of , acting by the council"; *or*, "Urban [*or* Rural] District Council of "; *as the case may be.*

† "Borough," *or*, "Urban [*or* Rural] District of ."

Where the Infectious Disease (Prevention) Act, 1890, is in force, ss. 8, 9, and 10 should be referred to. By s. 8 no person, without the sanction in writing of the medical officer of health or of a registered medical practitioner, shall retain unburied elsewhere than in a public mortuary or in a room not used at the time as a dwelling place, sleeping place, or workroom for more than forty-eight hours, the body of any person who has died of any infectious disease. By s. 9 bodies of persons dying of infectious diseases in a hospital or other place of temporary accommodation for the sick are to be removed only for burial; and by s. 10 justices may, in certain cases, order dead bodies to be buried.

In byelaws made under s. 8 of the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), with respect to mortuaries in the metropolis, the following proviso has, in certain cases, been added to clauses 2 and 3 of this model series:

Proviso for cases where inquests are to be held.

Provided that if an inquest is to be held on the body, such person shall not cause the body to be removed, except with the authority or on the certificate of the Coroner, but he shall cause the body to be removed within *twenty-four hours* after the issue of such authority or certificate.

Conduct of persons depositing or removing bodies.

4. Every person for the time being employed in depositing a body in the Mortuary, or in removing a body therefrom, shall, while so employed, conduct himself in all respects with decency and propriety.

Conduct of persons viewing bodies.

5. Every person who, being a friend or relative of one whose body has been deposited in the Mortuary, has been admitted to view the body shall, while on the premises, conduct himself in all respects with decency and propriety.

Regulations as to conduct.—Clause 4 of the series may be said to apply to the undertaker and his men, and clause 5 to friends and relatives of the deceased person. In construing either of these byelaws, the expression "with decency" may be held to exclude conduct which, while not actually indecent in the ordinary sense, is not decent having regard to the use of the mortuary as a place for the reception of the dead.

Removal of shells not belonging to the council.

6. Every person who, for the purpose of depositing a body in the Mortuary, uses a shell which has not been provided by the Council shall, in every case where the body is transferred from the shell before being carried from the premises to the place of burial, cause the shell, as soon as conveniently may be after the transfer of the body therefrom, to be removed from the premises.

Removal of private shells.—"No dead body should be received upon the premises unless it is enclosed in a shell or coffin." A sufficient number of shells of different sizes should be kept at the mortuary, and these the caretaker should be empowered to lend to undertakers or other responsible

persons for the conveyance of bodies to the mortuary. (See the memorandum of the Local Government Board prefixed to this series.) As, however, other shells, not belonging to the local authority, and probably not constructed with the same regard to sanitary conditions as those provided by the local authority, may be used for the purpose of bringing bodies to the mortuary, and as inconvenience would be occasioned if these shells were left at the mortuary, the local authority may properly require that they be taken away so soon as the bodies brought in them have been transferred to the coffins in which they are to be carried to burial. No shell which has been used for enclosing a dead body should on any account be allowed to stand empty on the premises without being thoroughly cleansed. (Memorandum of the Local Government Board.)

Penalties.

7. Every person who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of , and in the case of a continuing offence to a further penalty of for each day after written notice of the offence from the Council :

Provided nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalties.—Any sums up to "*five pounds*" and "*forty shillings*" respectively may be inserted. The second paragraph is required in order to comply with the provision in s. 183 of the Public Health Act, 1875.

Recovery of penalties.—As to the recovery of penalties, see s. 251 of the Public Health Act, 1875, and note thereon in Lumley's Public Health, 5th ed., p. 333.

Repeal of Byelaws.

Repeal.

8. From and after the date of the confirmation of these byelaws, the byelaws with respect to the management of a Mortuary, which were made on the day of in the year one thousand eight hundred and by the , and were confirmed on the day of in the year one thousand eight hundred and by [one of Her Majesty's Principal Secretaries of State] [the Local Government Board] shall be repealed.

Repeal of byelaws.—If there should be in force any byelaws with respect to the mortuary which the local authority are desirous of repealing, the above clause should be completed and included in the series.

SERIES XVI.

OFFENSIVE TRADES.

OFFENSIVE TRADES.

MEMORANDUM.

By section 112 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), it is enacted as follows :— 38 & 39 Vict. c. 55, ss. 112. 113.

"Any person who, after the passing of this Act, establishes within the district of an Urban Authority, without their consent in writing, any offensive trade; that is to say, the trade of—

Blood boiler, or
Bone boiler, or
Fellmonger, or
Soap boiler, or
Tallow melter, or
Tripe boiler, or
Any other noxious or offensive trade business or manufacture,

shall be liable to a penalty not exceeding fifty pounds in respect of the establishment thereof, and any person carrying on a business so established shall be liable to a penalty not exceeding forty shillings for every day on which the offence is continued, whether there has or has not been any conviction in respect of the establishment thereof."

The next section (113) is in these terms :—

"Any Urban Authority may from time to time make byelaws with respect to any offensive trades established with their consent either before or after the passing of this Act, in order to prevent or diminish the noxious or injurious effects thereof."

What is an "offensive trade."

It will be seen from the last cited enactment that, in order to bring a trade within the operation of the byelaws which the Urban Authority are empowered to make, the trade must belong to the class designated "offensive," and must have been established with the consent of the Authority either before or after the passing of the Public Health Act, 1875.

In ordinary cases there will, of course, be little difficulty in determining whether the circumstances and date of the original establishment of any particular trade are such as to render it subject to the control which the Urban Authority may exercise by means of their byelaws.

But in relation to a trade other than those expressly mentioned in s. 112, that is to say, the trades of a blood boiler, bone boiler, fellmonger, soap boiler, tallow melter, and tripe boiler, the question whether the materials and processes are such as to constitute a "noxious or offensive trade, business or manufacture" is one which will often be found to require careful consideration, and an accurate knowledge of the facts of the case.

When any such question comes before the Urban Authority they may be advised to give special heed to the principles which may be deduced from the decisions in Wanstead Local Board of Health *v.* Hill (1863), 13 C. B. (N.S.) 479; 32 L. J. (N.S.) M. C. 135; 9 Jur. (N.S.) 972; Passey *v.* Oxford Local Board (1879), 43 J. P. 622; and Cardell *v.* New Quay Local Board (1875), 39 J. P. 742.

The first and last of these cases arose under s. 64 of the Public Health Act, 1848 (11 & 12 Vict. c. 63), an enactment of which the greater part has in substance been reproduced in s. 112 of the Public Health Act, 1875. The case of Passey, app., Oxford Local Board, resp., had reference to the last-mentioned enactment.

Brick-making (*Wanstead Local Board of Health*, app. v. *Hill*, resp.).

In Wanstead Local Board of Health, app., Hill, resp., the question submitted for the opinion of the Court of Common Pleas was whether the trade or manufacture of brick-making was a noxious or offensive business, trade, or manufacture intended to be designated by s. 64 of the Public Health Act, 1848. The Justices had found that brick-making was not necessarily such a business, trade, or manufacture, and their finding was upheld by the Court of Common Pleas. In the course of the argument, and, according to one report, in giving judgment, Lord Chief Justice Erle drew attention to the fact that all the trades mentioned in the 11 & 12 Vict. c. 63, s. 64, specifically dealt with substances which were, or must necessarily become in themselves offensive. To this observation Mr. Justice Willes is reported as having referred in the following terms: "It may well be held that a brick-yard is not within the meaning of the Act because, as observed by My Lord, all the trades specified in the section involve the collection of large

quantities of animal matter which, however the operation may be carried on, must by putrefaction be a nuisance to the neighbourhood. But that is not the case with brick-making, and the general words of the section must be controlled by the specific words which precede them."

Rag and bone merchant (*Passey*, app. v. *Oxford Local Board*, resp.).

In Passey, app., Oxford Local Board, resp., it appeared that the appellant had recently established without the consent, and within the district of the Local Board, the business of a bone and rag merchant. On behalf of the respondents, three witnesses, viz., the Inspector of Nuisances, the Medical Officer of Health, and a neighbour, gave evidence before the Justices in support of the allegation that the trade as carried on by the appellant was noxious and offensive. The first witness deposed that in consequence of complaints he visited the premises in the month of August, and found the effluvia from the bones and rags very offensive. The Medical Officer of Health gave evidence to the effect that on the occasions of his visiting the premises, in the months of August and October, he found a noxious smell which, in his judgment, made the trade an offensive one. He was also of opinion that the smell when bad was injurious to health. The neighbour deposed that he had many times noticed offensive smells from the premises; that he had twice been made sick by these smells, and that his wife also had been ill from the same cause. Seven witnesses were called on behalf of the appellant, and it was contended by his counsel that the trade was not *ejusdem generis* with the six trades set out in s. 112 of the 38 & 39 Vict. c. 55, or analogous thereto. The Justices, however, in the result found that the business was as a matter of fact a noxious and offensive one, and that, as a matter of law, it was *ejusdem generis* with the six trades specified in s. 112. Upon a case stated for the opinion of the Queen's Bench Division Lord Chief Justice Cockburn, in giving judgment, observed, "The Justices in this case found as a matter of fact that it was a noxious trade. I agree that that is not enough, and that it must also be one that is *ejusdem generis* with those specified in the 112th section. I notice that those mentioned seem to include animal matter in some form. Here there is animal matter in the bones, and the mere exposure of green bones may be very offensive. I think the Justices were right in their decision."

Manure merchant (*Cardell*, app. v. *New Quay Local Board*, resp.).

In the third case, Cardell, app., New Quay Local Board, resp., the Justices had found that the appellant had newly established the trade of a manure merchant and dealer in artificial manures at New Quay, within the district of the

Local Board, and without their consent. From the case stated for the opinion of the Queen's Bench Division, it appeared that, upon the hearing of the information, the appellant admitted that he had established since the adoption of the Local Government Act, 1858, by the district of New Quay, and was carrying on within that district the business or trade of an artificial manure merchant. He also admitted that he sold there, but did not manufacture artificial manures; and that he had kept at one time twenty-five tons of a manure called corn manure, composed of dissolved beans and sulphuric acid. The respondents did not offer evidence to show that the trade, as carried on by the appellant, had been either noxious or offensive to residents in the locality of his building. The respondents contended that the trade of an artificial manure dealer, storing quantities of twenty-five tons at a time, was of itself noxious and offensive. On the other hand, it was urged, on behalf of the appellant, that the trade as conducted by him, not being one of those enumerated in the 11 & 12 Vict. c. 63, s. 64, it was incumbent on the respondents to show that the trade was either offensive or noxious before the statute could be made applicable. The appellant also adduced the evidence of the Medical Officer of Health and of another medical man residing and practising in the district. The former said that, on visiting the stores, he did not find them noxious nor was he offended; that the deposit of manure was not noxious; that the smell might annoy a person, and that he thought that the newly establishing of a manure business in a town might be offensive to many people. The other medical witness testified that he had not discovered that the stores were offensive in the least; that they certainly were not noxious; that all animal matter formerly contained in the manure had been destroyed by the action of the sulphuric acid, and that the earthy substances only remained.

The question of law arising for the opinion of the Court was, whether the trade, as conducted by the appellant, was such a trade as was prohibited by the 11 & 12 Vict. c. 63, s. 64, "and this without proof on the part of the respondents of the trade being carried on in such a manner as to be noxious or offensive."

In giving judgment for the appellant, Mr. Justice Mellor observed, "We cannot say that as a matter of law this business is within the section, and is offensive. It is a question of fact for the Justices whether, in point of fact, it is offensive. The

evidence stated did not support such a finding." Mr. Justice Quain added, "We cannot say that this trade is necessarily offensive. That must depend on the evidence, and here there was none."

Effect of judicial decisions.

From the above cited cases it seems to follow that, in seeking to establish an analogy between a particular trade and those specified in s. 112 of the Public Health Act, 1875, the Urban Authority should attach much importance to the identity or similarity of the materials used in its processes. If a trade can be shown to involve the collection of large quantities of animal matter, or of substances which, without anything being done to them, must be or by progress of time must necessarily become a nuisance to the neighbourhood, it is probable that the terms of s. 112 will be found sufficiently comprehensive to include such a trade.

But in order that a trade may be brought within the operation of that enactment, the Urban Authority should, in every case, be in a position to adduce adequate testimony in support of their allegation that the trade is noxious or offensive. That the Court of Summary Jurisdiction may be satisfied that the particular trade is noxious or offensive, and that their finding may be supported by the evidence, it is clearly essential that the Urban Authority should in every case be able to lay before the Court well ascertained facts as to the processes of the trade, and to show how their results may be noxious or offensive.

Model byelaws.

In the present series of model byelaws it will be seen that the Board have included, in addition to the clauses relating to the trades specified in s. 112 of the Public Health Act, 1875, byelaws for the regulation of the trades of a blood drier, a leather dresser, a tanner, a fat melter or fat extractor, a glue maker, a size maker, and a gut scraper.

The Board may explain that, in embodying regulations as to these trades in their model series, they have been influenced by the knowledge that the substances used and the nature of the processes are such as, under ordinary circumstances, might be readily shown to be analogous to those of the trades specified in s. 112.

But although the Board do not anticipate that there will be any difficulty in bringing these trades within the scope of the last-mentioned enactment, the Urban Authority will bear in mind that, if in any case they should be compelled to have

recourse to proceedings before a Court of Summary Jurisdiction, they should be prepared with proof that the particular trade is being carried on in such a manner as to be noxious or offensive.

Dr. Ballard's Report on Effluvium Nuisances.

The Board may add that the Lords Commissioners of Her Majesty's Treasury have authorised the Controller of the Stationery Office to reprint copies of that portion of the Report on Effluvium Nuisances by Dr. Ballard, one of the Medical Inspectors of the Board, which originally formed part of the supplement to their Sixth Annual Report, and which contains much valuable information respecting the several trades above referred to.

These copies will be on sale by the agents of Her Majesty's Stationery Office at the price of four shillings a copy.

JOHN LAMBERT,
Secretary.

Local Government Board,
25th July, 1882.

What is an "offensive trade."—It will be seen from a comparison of ss. 112 and 113 of the Public Health Act, 1875, that byelaws may be made under the latter section with respect to the trade of a blood boiler, a bone boiler, a fellmonger, a soap boiler, a tallow melter, or a tripe boiler, or "any other noxious or offensive trade, business, or manufacture." The effect of the decisions in the cases cited in the above memorandum, as interpreted by the Local Government Board, appears to be that in order to bring any trade not specifically mentioned in s. 112 within the scope of s. 113, it must be shown (*a*) to be *ejusdem generis* with those specified in s. 112 to the extent, at least, of involving "the collection of substances which, without anything being done to them, must be, or by progress of time must necessarily become, a nuisance to the neighbourhood," and (*b*) to be actually carried on in such a manner as to be noxious or offensive. Byelaws under this section have been allowed with respect to the trades of a dealer in rags and bones, a fish curer, and a dealer in fish offal. It has been held that s. 112 of the Public Health Act, 1875, does not apply to the keeping of a fried-fish shop, which was not a place necessarily offensive (*Boyton* v. *Braintree Local Board* (1885), 52 L. T. 99 ; 48 J. P. 582). The offensiveness that arose from the trade was not due to decomposition, but owing to a superfluity of grease being used and getting into the fire.

Such a case may be dealt with under s. 114 of the Act of 1875 (*Holdershaw* v. *Martin* (1885), 49 J. P. 179 ; 1 T. L. R. 323 ; see, also, *Malton Board of Health* v. *Malton Farmers Manure Co.* (1879), 4 Ex. D. 302 ; 49 L. J. M. C. 90 ; 40 L. T. 755 ; 27 W. R. 802 ; 44 J. P. 155). No notice need be given before taking proceedings to abate a nuisance under this section (*cf. Bird* v. *St. Mary Abbott's Vestry*, [1895] 1 Q. B. 912 ; 64 L. J. M. C. 215 ; 72 L. T. 599 ; 59 J. P. 391 ; 15 R. 438). Where a manure company, without leave of the sanitary authority, carried on the business of steaming bones by screwing them down in metal cylinders hermetically sealed, and introducing dry steam, which stripped the bones and caused no offensive smell, no water being used in the process, it

was held that the company were not liable to be convicted under s. 112 of the Public Health Act, 1875 (*Cardiff Manure Co.* v. *Cardiff Union* (1890), 54 J. P. 661).

A hospital is not a noxious business within s. 112 of the Act of 1875 (*Withington Local Board* v. *Manchester Corporation*, [1893] 2 Ch. 19 ; 62 L. J. Ch. 393 ; 68 L. T. 330 ; 41 W. R. 306 ; 57 J. P. 340 ; 2 R. 367).

Local authorities competent to adopt the model byelaws.—The model byelaws as to offensive trades can only be adopted by an urban district council, or by a rural district council invested by an order of the Local Government Board under s. 276 of the Public Health Act, 1875, with the powers of an urban district council under s. 113 of the Act. Where application is made by a rural district council for such an order the instructions given in the Introduction should be observed.

Scope of the model byelaws.—The terms of s. 113 of the Public Health Act, 1875, take out of the scope of any byelaws which may be made thereunder any trade, business, or manufacture not established with the consent of the district council, either before or after the passing of the Act. If any noxious or offensive trade, business, or manufacture were established without such consent the provisions of s. 112 would apply. The purpose of the byelaws is, therefore, the regulation, and not the prohibition, of offensive trades, and the extent of regulation permissible is indicated by the words, in s. 113, "in order to prevent or diminish the noxious or injurious effects thereof." The section does not appear to authorise the making of byelaws dealing expressly with the structural details of premises in which any offensive trade may be carried on ; although such details are no doubt of great importance in relation to the prevention or diminution of nuisance in connection with the trade. But the model series will be found to contain several clauses, the requirements of which cannot be complied with without proper structural arrangements, and which thus indirectly deal with such matters. As regards new premises, at any rate, byelaws on the subject should be unnecessary, as the district council can, and should, make their consent to the establishment of any offensive trade thereon, subject to proper structural arrangements being observed.

Dr. Ballard's Report on Effluvium Nuisances.—The report referred to in the latter part of the memorandum of the Local Government Board constitutes a valuable record of a most able and painstaking investigation undertaken by Dr. Ballard, F.R.S., F.R.C.P., then one of the medical inspectors of the Board, into the effluvium nuisances arising in connection with various industries, with especial regard to the effects of the effluvia upon health, and the extent to which such nuisances can be prevented. The report was originally published in three sections in the supplements to the annual reports of the Local Government Board for the years 1876, 1877, and 1878, that part of it which relates to nuisances arising from trades in which animal substances or substances of animal origin are principally dealt with, being contained in the first of these sections (Supplement to the Sixth Annual Report of the Local Government Board, pp. 111—284). The general arrangement of the report is such as to indicate the principal processes carried on in connection with each trade, distinguishing those from which nuisance chiefly arises, and the remedies for the several sources of nuisance, so far as they are attainable. An attempt has been made in the following pages to summarise in a very brief manner those portions of the report which relate to the trades dealt with in the model series, to such an extent as will explain the scope and intention of the clauses,

and subject to some modifications which appear to be necessary in view of improvements effected since the date of the report in the processes and appliances of the several trades. For further information on the subject of these trades, reference may be made to Spon's Encyclopædia of Manufactures and Raw Materials,* and to Drs. Stevenson and Murphy's Treatise on Hygiene and Public Health † (Art. Offensive and Noxious Businesses, by Dr. T. Whiteside Hime).

Possibility of obviating nuisance and injury to health from offensive businesses.—In the course of some general observations on the subject of Dr. Ballard's report, which are contained in the annual report of the medical officer of the Local Government Board for the year 1878, it was remarked that, under this head, Dr. Ballard's investigation leads to a quite satisfactory result, inasmuch as it shows that by the application of such knowledge as was already at command, all, or nearly all, businesses that were in a serious degree offensive could be carried on, either without offence, or with such important reductions of offence as would make it tolerable or even trivial. It was further pointed out, as not the least satisfactory feature of the inquiry, that "it is commonly found in practice to be as much to the interest of the manufacturers as of the public that the emanations from offensive processes should be thus arrested."

General effect of Dr. Ballard's recommendations.—The general effect of Dr. Ballard's suggestions, so far as these suggestions are applicable to the question of byelaws, may be said to be that three things at least should be aimed at in connection with any offensive trade, viz.:

(1.) Habitual cleanliness on the part of those practically engaged in the trade;

(2.) Careful storing of materials likely to become offensive;

(3.) The adoption of proper means of preventing the escape of noxious fumes into the atmosphere, or of preventing their escape into the atmosphere at such a height as is insufficient to secure ample diffusion and dilution.

It will be found that throughout the model series these three points are carefully kept in view. In some cases similar provisions appear in several separate series; and where this is the case it has not been considered necessary to repeat the notes explanatory of the purpose of the clauses.

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* London: E. & F. Spon. † London: J. & A. Churchill.

SERIES XVI.—OFFENSIVE TRADES.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for a draft form on which to submit the byelaws for the Board's preliminary approval, before they are adopted by the local authority.*]

BYELAWS

MADE BY THE* FOR THE REGULATION OF OFFENSIVE TRADES IN THE † .

Interpretation.

1. Throughout these byelaws the expression "the Council" means the* . Interpretation.

With respect to the trade of a blood boiler.

2. Every blood boiler shall cause all blood which has been received upon the premises where his trade is carried on, and which is not required for immediate use, to be stored in such a manner and in such a situation as to prevent the emission of noxious or injurious effluvia therefrom. Storage of blood.

Trade of a blood boiler.—The following processes for the utilisation of the blood collected in slaughter-houses are described in Dr. Ballard's Report, viz :

The preparation of blood for use by Turkey-red dyers;

The manufacture of blood-albumen ;

The manufacture of blood or blood-clot into manure.

The first two series of the model byelaws as to offensive trades deal respectively with the trade of a "blood boiler" and the trade of a "blood drier." The former is one of the trades mentioned in s. 112 of the Public Health Act, 1875, but is practically obsolete. Where practised, the boiling may be effected either by throwing free steam into the blood, which is first mixed with water, or by means of fire heat. The greater nuisance is occasioned where fire heat is used, as some portion of the blood becomes charred in the pan ; but in both instances the process is most offensive where the blood used has become in any degree putrid, and special precautions

* "Mayor, aldermen, and burgesses of the borough of , acting by the council" ; *or*, "Urban District Council of " ; *as the case may be.*

† "Borough," *or*, "Urban District," *as the case may be.*

should in all cases be taken as to the emission of effluvia into the atmosphere. Where steam boiling is carried on, the product is strained and subjected to pressure. It may afterwards be dried on a kiln. This process also is offensive, as partial charring takes place.

Storage of blood.—Blood received for boiling, and not required for immediate use, should be kept in air-tight receptacles. For the reasons above indicated, however, it should be dealt with as soon as possible.

Emission of vapours.

3. Every blood boiler shall adopt the best practicable means of rendering innocuous all vapour emitted, during the process of boiling, from the contents of any pan or other receptacle upon the premises where his trade is carried on.

He shall, in every case, either cause the vapour to be discharged into the external air in such a manner and at such a height as to admit of the diffusion of the vapour without noxious or injurious effects, or shall cause the vapour to pass directly from the pan or receptacle through a fire, or into a suitable condensing apparatus, or through a suitable condensing apparatus, and then through a fire in such a manner as effectually to consume the vapour, or to deprive the same of all noxious or injurious properties.

Emission of noxious gases and vapours.—No series of byelaws for the regulation of these offensive trades would be complete in which due provision was not made for rendering innocuous the gases or vapours evolved in the various processes of melting or boiling carried on in connection with most of the trades. In the model code a clause similar to the present will be found to have been inserted with reference to nine out of the thirteen trades dealt with, although in some cases the provision permitting the discharge of the vapours into the air at a considerable height above the ground, as an alternative to passing them through a fire, or condensing them, is omitted. In referring to the general principles on which the prevention of effluvium nuisances should be based, Dr. Ballard remarks in his report that "sometimes a careful selection of the materials of the manufacture, or some little modification of the manner of conducting a part of the process, may be sufficient to obviate an effluvium nuisance wholly or partially. But where the evolution of offensive gases or vapours is not thus avoidable they must be intercepted in their passage to the external air, and dealt with in such a manner as to destroy their offensive character. One method of interception consists in arrangements for drawing off in a continuous manner the air of the entire chamber or workshop in which the offensive effluvia are evolved; but mostly the interception is practicable without doing this. When drawn off, or collected, they may, according to their nature, be dealt with in one of five ways: (1.) They may be discharged into the atmosphere at such an elevation as that they shall be so diluted before reaching the ground as not to be then offensive. When this will not suffice, other means must be used. (2.) If the evolved matters be condensible by cold they may be passed through an appropriate condensing apparatus. (3.) If soluble in water they may be submitted to the action of water in an appropriate apparatus, or similarly to the action of any other liquid better calculated to absorb them. (4.) Sometimes, in like

manner, solid substances, with which the effluvia have chemical affinity, may be used with advantage, either in powder or otherwise. (5.) If the evolved matters be combustible they may be burned by conducting them through a fire." In this connection, Dr. Ballard appends some valuable observations on the diffusion of offensive effluvia from works where these trades are carried on.

With respect to the trade of a blood drier.

4. Every blood drier shall cause all blood which has been received upon the premises where his trade is carried on, and which is not required for immediate use, to be stored in such a manner and in such a situation as to prevent the emission of noxious or injurious effluvia therefrom. Storage of blood.

Trade of a blood drier.—In connection with this trade reference may be made to the remarks on the trade of a blood boiler which are contained in a note on pp. 521, 522. Blood or blood-clot is converted into manure by mixing it with sulphuric acid, and then drying it. The first part of the process may occasion nuisance through the sickening fumes evolved by the mixture of acid and blood. The drying may be effected either spontaneously in the air, or by artificial heat. Steam heat is better than fire heat, as it can be more easily regulated, and because where fire heat is employed some charring of the blood seems unavoidable. The freshness or otherwise of the blood also affects the degree of nuisance occasioned by the process of drying. The same precautions against the emission of noxious effluvia should be taken as in the case of blood boiling.

5. Every blood drier shall, at the close of every working day, cause every floor or pavement elsewhere than in that part of the premises where the processes of drying and packing are carried on to be thoroughly washed. Cleansing of floors and pavements.

Cleansing of floors and pavements.—The byelaws cannot expressly require a person carrying on an offensive trade to pave his yard or works, or regulate the character of the pavement. But it is essential that the floor or pavement should be kept clean; and for this purpose it should be constructed of asphalte, concrete, or other jointless material—not of flags, the joints of which cannot be kept watertight, and which consequently permit offensive liquids to penetrate between and beneath the stones. The floor should be properly laid on a suitable bottom, at least *four inches* in thickness, and should have a proper fall towards a channel or gully.

6. Every blood drier shall, at the close of every working day, cause every vessel or utensil and every implement which has been in use during the day upon the premises where his trade is carried on, or which is in a foul or offensive condition, to be thoroughly cleansed. Cleansing of implements.

Cleansing of implements and utensils.—This is a byelaw for promoting that general and habitual cleanliness which has been referred to in an earlier note.

Wall-surfaces to be kept in repair.

7. Every blood drier shall cause every part of the internal surface of the walls of any building upon the premises where his trade is carried on to be kept at all times in good order and repair so as to prevent the absorption therein of any liquid filth or refuse, or any noxious or injurious matter which may be splashed thereon.

Construction of walls.—Although the district council cannot, by means of byelaws, expressly regulate the construction of walls on premises where an offensive trade is carried on, the requirement that wall surfaces shall be kept in good order and repair "so as to prevent the absorption" of liquid filth, etc., will, in effect, enable them where necessary to require the internal surface of any wall, where offensive matter is likely to be splashed, to be properly constructed of non-absorbent material.

Emission of vapours.

8. Every blood drier shall adopt the best practicable means of rendering innocuous all vapour emitted, during the process of drying, from the contents of any pan or other receptacle or from any kiln or drying floor upon the premises where his trade is carried on.

He shall, in every case, either cause the vapour to be discharged into the external air in such a manner and at such a height as to admit of the diffusion of the vapour without noxious or injurious effects, or shall cause the vapour to pass directly from the pan or receptacle, or from the kiln or drying floor through a fire, or into a suitable condensing apparatus, or through a suitable condensing apparatus, and then through a fire in such a manner as effectually to consume the vapour, or to deprive the same of all noxious or injurious properties.

With respect to the trade of a bone boiler.

Storage of bones.

9. Every bone boiler shall cause all bones which have been received upon the premises where his trade is carried on, and which are not immediately required for boiling, to be stored in such a manner and in such a situation as to prevent the emission of noxious or injurious effluvia therefrom.

Trade of a bone boiler.—Bones of various kinds are boiled for, among other purposes, the extraction of the fat which they contain, and to prepare the bones themselves for further trade uses. Bones supply an exceedingly valuable material for manure, especially for light soils; but they are seldom used for fertilising purposes without having been first boiled to get rid of the fat. The extracted fat is sold to soap makers, the manufacturers of butterine, and others. Bones are also boiled for the extraction of gelatine, for glue and size making; and the trade of a bone boiler may be carried on either independently, or in conjunction with other trades, such as the "rendering" of

butchers' fat or kitchen stuff;* the manufacture of such various articles as soap, size, manure, charcoal, bone buttons, and the like; the making of dripping, and the slaughter of horses and other animals not intended for human food. The boilers may be either open or closed, and the boiling may be effected either by means of fires beneath the pans or by steam. For the prevention of nuisance, and, independently of this, for the preparation of bones for making manure, boiling by steam in closed vessels is much the best method. The bones, after boiling in this way, are much drier, and being more brittle are more easily ground. When the boiling has continued long enough, the fat is skimmed off. If the object is merely to extract the fat, and prepare the bones for the manure maker, a few hours boiling is sufficient; but the process may go on for four or five days where it is undertaken with a view to the making of size. At most places, after boiling, the bones are thrown into a brick chamber to dry by heat spontaneously evolved from the mass. In order to preserve their whiteness, however, bones intended for making buttons, and other articles, are commonly thrown into cold water as soon as they are taken from the pans. The bone liquor is at most establishments run off into the drains; but where size is made it is drawn off, and subsequently boiled down to give it the necessary consistency.

Storage of bones.—Among other sources of nuisance in connection with the trade of a bone boiler, Dr. Ballard mentions the reception and retention on the premises of stale or semi-putrid bones, especially of those supplied by marine store dealers. He suggests that, where not required for immediate use, bones should be stored in tarred bags or other closed receptacles; or that, if placed in a heap at the works, they should be covered with a tarpaulin.

Cleansing of floors and pavements.

10. Every bone boiler shall, at the close of every working day, cause all grease, refuse, or filth which may have been spilled or splashed, or may have fallen or been deposited upon any floor or pavement upon the premises where his trade is carried on, to be removed therefrom by scraping or some other effectual means of cleansing.

Emission of vapours.

11. Every bone boiler shall adopt the best practicable means of rendering innocuous all vapour emitted, during the process of boiling, from the contents of any pan or tank, and all vapour emitted from any chamber used for the storage of boiled bones upon the premises where his trade is carried on.

He shall, in every case, either cause the vapour to be discharged into the external air in such a manner and at such a height as to admit of the diffusion of the vapour without noxious or injurious effects, or shall cause the vapour to pass

* See the model clauses as to the trades of a tallow melter, and a fat melter or fat extractor (pp 534 and 536).

directly from the pan, tank, or chamber through a fire, or into a suitable condensing apparatus, or through a suitable condensing apparatus and then through a fire in such a manner as effectually to consume the vapour, or to deprive the same of all noxious or injurious properties.

Emission of vapours.—The offensiveness of the steam given off during the process of boiling, varies with the staleness or putridity of the bones. If they are comparatively fresh, the odour, though unpleasant, is not nauseous. The steam from putrid bones, however, is distinctly of this character. But the chief source of nuisance is the effluvia from the chamber into which the boiled bones are thrown to dry, as previously mentioned, by spontaneous heat. The remedy in both cases is that indicated in the clause above.

Liquid refuse to be cooled.

12. Every bone boiler shall cause all liquid refuse, before being discharged into any drain from any part of the premises where his trade is carried on, to be cooled in such a manner as to prevent the emission of noxious or injurious effluvia therefrom.

Waste bone liquors.—Where the residual liquor from bone boiling is not required for making size, it should be allowed to cool before it is run off into the drains. It may be added that any water into which bones may be thrown after boiling should be run off as speedily as possible, so as to prevent it becoming putrid. Dr. Ballard found that where water had been discharged in that condition, complaints were made of offensive smells from the drains in the neighbourhood. As regards places where Part III. of the Public Health Acts Amendment Act, 1890, has been adopted by an urban authority, see the provisions contained in s. 17 of that Act.

With respect to the trade of a fellmonger.

Keeping of decomposed skins.

13. A fellmonger shall not cause or suffer any skin which, by reason of decomposition, has become useless for the purpose of leather dressing, to be kept for a longer time than may be necessary in any part of the premises where his trade is carried on.

Trade of a fellmonger.—The proper trade of a fellmonger may be said to consist in converting the "skins" of sheep into "pelts," to be dealt with by the leather dresser. A pelt is a skin denuded of wool, and the two main processes to which the skins are subjected at the hands of the fellmonger are (*a*) "liming"; and (*b*) the removal of the wool. English skins, when received by the fellmonger, are first cleansed from the filth adhering to them, and then immersed in, or brushed on the fleshy side with, milk of lime. After this, the skins are hung for a short time to loosen the wool, which is then removed by the process of "pulling" or scraping; and the skin (now become a "pelt") is laid in a pit containing milk of lime, until it is ready to be sent to the leather dressers. Foreign skins, which come to the fellmonger usually in bales, in a dry state, have, in the first instance, to be soaked in water to soften

them. After this, the wool may be loosened by a process known as "tainting," in which the damp skins are hung in a warm atmosphere until slight superficial change of a putrefactive character takes place. The removal of the wool is then proceeded with as in the case of English skins.

Decomposition of skins.—A fellmonger must almost necessarily receive at times, in the course of his business, skins which are to some extent already decomposed, although not sufficiently so to render them useless to the leather dresser. It will be to his interest to deal with such skins as speedily as possible, so as to prevent their becoming useless through further decomposition. But if a skin when received is already useless from the extent to which decomposition has proceeded, or if it should become useless from this cause after it is received by him, it is obviously necessary, in order to prevent noxious or injurious effects, that the skin should, without undue delay, be removed from the premises. A skin may fall into the condition above described through being kept too long in the "tainting-oven."

Cleansing of floors and pavements.

14. Every fellmonger shall, at the close of every working day, cause every floor or pavement upon the premises where his trade is carried on to be thoroughly swept.

He shall, at the same time, cause all filth or refuse deposited on the floor or pavement to be collected in suitable vessels or receptacles furnished with closely fitting covers, and to be forthwith removed therein from the premises.

Cleansing of floors and pavements.—See note, p. 523. One avoidable nuisance in connection with the trade of a fellmonger is "the general mixed offensive odour" which proceeds from a yard where due cleanliness is not observed. All filth and refuse should be collected in impervious covered vessels, and in these vessels it should be, as soon as possible, removed from the premises. The present clause, in effect, requires such vessels to be provided for the purpose. It has, however, been considered that the clause may be unnecessarily stringent, and that the first paragraph,—with the addition after "swept" of the words "and cleansed,"—might be limited to those parts of the premises on which any wet process of the trade is carried on.

Collection of refuse for removal from the premises.—It has been suggested that the byelaw should be altered so as to admit of the filth or refuse collected on the premises in connection with the daily cleansing being deposited (as an alternative arrangement) in a receptacle constructed of brickwork in cement properly rendered inside with cement, or of other impervious material, and properly covered, and having its floor raised some inches above the surface of the ground. The byelaw might then provide for the removal of the matters collected, with all reasonable dispatch, and not less frequently than, say, once a month (instead of "forthwith").

Renewal of water in tanks.

15. Every fellmonger shall cause the supply of water in every tank or other receptacle used upon the premises where his trade is carried on for the washing or soaking of any skin to be renewed as often as may be necessary to prevent the

emission of noxious or injurious effluvia from the contents of the tank or other receptacle.

Emptying and cleansing of tanks.

16. Every fellmonger shall cause every tank or other receptacle used upon the premises where his trade is carried on for the washing or soaking of any skin, and not being a liming pit, to be emptied once at least in *every day*.

He shall cause every part of the tank or other receptacle, when emptied, to be thoroughly cleansed, and shall cause all filth which has been removed therefrom, to be forthwith conveyed from the premises in suitable vessels or receptacles furnished with closely fitting covers.

Cleansing, etc. of tanks.—The skins, as received by the fellmonger, are usually washed in tanks. Similar receptacles are also used for soaking the skins in order to soften them previously to the removal of the wool, or for other purposes. When the water in any of these tanks has been in use for a lengthened period, the emptying and cleansing of the tanks must inevitably occasion nuisance. But it is not necessary to use the same water day after day for many days ; and the tanks themselves should frequently be emptied and cleansed, the filth removed from them being placed in impervious covered receptacles in which it can be carried away. See, however, the note on clause 14, *ante*, as to the use of a fixed receptacle for the temporary deposit of filth and refuse. *Twice a week* (instead of "every day") has been suggested for the emptying and cleansing of tanks.

Removal of waste lime.

17. Every fellmonger shall cause all waste lime which has been taken out of any pit upon the premises where his trade is carried on to be forthwith deposited in suitable vessels or receptacles, or in a properly constructed cart or carriage, which, when filled or loaded, shall be covered in such a manner as to prevent the emission of noxious or injurious effluvia from the contents thereof, and shall, with all reasonable dispatch, be removed from the premises.

Removal of waste lime.—The waste lime taken from exhausted lime pits is charged with decomposing animal matter and ammonia. It should not be retained upon the premises for any longer time than is necessary ; and in order to prevent as far as possible the escape of offensive effluvia it should be emptied at once into covered carts for removal. By means of byelaws under s. 26 (1) of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), the local authority can regulate the removal or carriage through the streets of any offensive or noxious matter, and can by such byelaws provide that the vessel, receptacle, cart, or carriage used therefor shall be properly constructed, and covered so as to prevent the escape of any such matter. See note on clause 14, *ante*, as to the use of a fixed receptacle for the deposit of refuse.

18. Every fellmonger shall cause every floor or pavement upon the premises where his trade is carried on to be kept at all times in good order and repair, so as to prevent the absorption therein of any liquid filth, or refuse, or any noxious or injurious matter which may fall or be deposited thereon. Floors and pavements to be kept in repair.

He shall also cause every part of the internal surface above the floor or pavement of every building used for any process of his trade to be thoroughly washed with hot lime-wash at least twice in *every year*, that is to say, at least once during the periods between the *first* and *twenty-first* day of *April*, and the *first* and *twenty-first* day of *October*, respectively.

Construction of floors and pavements.—See note on clause 7. The present clause indirectly provides for the paving of floors, where necessary, with some non-absorbent and suitable material. It has been urged that the provisions of this clause need not apply to any part of the premises used solely for the storage of wool or dry skins.

Lime-washing of walls, etc.—The latter part of clause 18 aims at the work of lime-washing being done regularly at stated times, so that the officers of the council, by inspection of the premises at the time named, may satisfy themselves that the requirements of the byelaw have been complied with.

With respect to the trade of a tanner.

19. Every tanner shall, at the close of every working day, cause every floor or pavement upon the premises where his trade is carried on to be thoroughly swept. Cleansing of floors and pavements.

He shall, at the same time, cause all hair, fleshings, and refuse fragments of skin, or other matter detached from any hide or butt to be collected and placed in a suitable part of the premises to await removal therefrom. Collection and removal of refuse.

He shall cause the hair, fleshings, and refuse fragments which have been so collected and which are not intended to be forthwith subjected to any further trade process upon the premises to be removed therefrom with all reasonable dispatch.

Trade of a tanner.—The special business of a tanner is the conversion of bullocks' hides into leather. Hides may be either fresh English hides from the cattle slaughtered for food in the United Kingdom, salted hides (largely imported from South America), or dried hides ("kips") from the East Indies, South America, and elsewhere. In addition to the tanning proper, the following processes in connection with the treatment of fresh and salted hides require mention, viz., liming, unhairing, "fleshing" and "bating." The process of liming lasts altogether about eight days. Every day while it continues, the hides are "hauled," *i.e.*, drawn out, laid one upon another at the

edge of the lime pit, and then put back again. This is done to secure the equal action of the lime throughout the mass. The second process effects the removal of the hair. The hides are placed, fleshy side downwards, upon a semi-circular iron beam, and scraped with large two-handled knives. "Fleshing" consists in the removal with a sharp knife of the loose inner tissues. "Bating" or "graining" is a process applied to hides which are to be converted into uppers or soft leather. They are usually put into a "bate" or pit containing a solution of pigeon or hens' dung. The solution is known as "grainers." All hides when first received by the tanner require to be soaked in water to soften them. English hides require very little soaking; salted hides require more; and for "kips" a comparatively lengthy soaking is necessary. For these latter, "old soaks" (*i.e.*, pits in which the same water is used for successive lots of kips without renewal of the water) appear to be preferred to fresh soaks; and the disturbance of these when the kips are taken out, or the soaks themselves emptied or cleansed, is a fertile source of nuisance to the neighbourhood of a tannery.

General management of premises.—The noxious effects of the trade of a tanner may be greatly diminished by the practice of systematic cleanliness, and especially by the speedy removal of all refuse matter, such as "fleshings" and refuse lime, from the premises. Fleshings are the parts removed during the process of fleshing, and they are usually sent to the glue makers. The littering of the works with fleshings, and other similar products of the business, should be carefully avoided. If nothing further is to be done with such matters upon the premises they should be removed as soon as possible, and in the meantime they should be "collected and placed in a suitable part of the premises." It may be questioned whether it would not be sufficient, as regards the first paragraph of this clause, to limit its application to parts of the premises on which any wet process has been carried on during the day. The words "and cleansed" might be added after "swept," and the byelaw might further be altered so as to require removal with all reasonable dispatch, and not less frequently than, say, once a month.

"Butts."—Butts are hides which have been "rounded" by cutting away the shoulders and belly, and rounding off the corners.

Cleansing of implements and apparatus.

20. Every tanner shall cause every beam, table, bench, knife, hammer, or other implement or apparatus used upon the premises where his trade is carried on for the purpose of unhairing, fleshing, rounding, scudding, or stocking any hide or butt or in any other process of his trade to be cleansed from time to time as often as may be necessary to prevent any accumulation of filth upon the beam, table, bench, knife, hammer, implement or apparatus.

Cleansing of implements and apparatus.—The tanner uses a "beam" during the process of fleshing. Tables or benches are required in connection with the operation of rounding. In "scudding," the hides are worked over with a blunt knife, after "bating," to remove water, dirt, and small hairs. "Stocking" consists in beating the hides with heavy hammers in a wooden box of special shape, with a view to softening them.

21. Every tanner shall cause all waste lime which has been taken out of any pit upon the premises where his trade is carried on to be forthwith deposited in suitable vessels or receptacles, or in a properly constructed cart or carriage, which, when filled or loaded, shall be covered in such a manner as to prevent the emission of noxious or injurious effluvia from the contents thereof, and shall, with all reasonable dispatch, be removed from the premises. Removal of waste lime.

Periods for removal of waste lime.—The tanner might be required to provide for the removal of the waste lime produced upon his premises with all reasonable dispatch and not less frequently than, say, once a month.

22. Every tanner shall cause all filth which has been splashed upon any part of the internal surface of any wall of any building upon the premises where his trade is carried on to be removed by scraping or by some other effectual means of cleansing at least twice in *every year*, that is to say, at least once during the periods between the *first* and *twenty-first* day of *March*, and the *first* and *twenty-first* day of *September*, respectively. Cleansing of walls.

He shall at the same time cause every part of the interior above the floor or pavement of the building to be thoroughly washed with hot lime-wash. Lime-washing.

Cleansing of walls, etc.—The reference to scraping in this clause is probably intended to apply chiefly to the walls of buildings where fleshing is carried on. In connection with this process it is found that the walls speedily become splashed and coated with filth. The scraping and lime-washing should always be required to be performed at stated intervals (as in the model clause), as otherwise the officers of the local authority may have great difficulty in ascertaining that the work has been properly performed. Possibly it might be proper that the requirements of this clause should, by a proviso, be waived in the case of a building used only for the storage of dry leather.

23. Every tanner shall cause every part of the internal surface of the walls of any building and every floor or pavement upon the premises where his trade is carried on to be kept at all times in good order and repair, so as to prevent the absorption therein of any liquid filth or refuse, or any noxious or injurious matter which may be splashed or may fall or be deposited thereon. Walls, floors and pavements to be kept in repair.

Construction of walls, floors, and pavements.—This clause in effect requires the walls to be covered with some non-absorbent and suitable material where (*e.g.*, in the fleshing shops) they are likely to be splashed with offensive matter.

With respect to the trade of a leather dresser.

Cleansing of floors and pavements.

24. Every leather dresser shall, at the close of every working day, cause every floor or pavement upon the premises where his trade is carried on to be thoroughly swept.

Collection and removal of refuse.

He shall, at the same time, cause all fleshings and refuse fragments of skin or other matter detached from any pelt to be collected and placed in a suitable part of the premises to await removal therefrom.

He shall cause the fleshings and refuse fragments which have been so collected and which are not intended to be forthwith subjected to any further trade process upon the premises to be removed therefrom with all reasonable dispatch.

Trade of a leather dresser.—The legitimate trade of a leather dresser, as described by Dr. Ballard in his report, is to receive "pelts" (sheep skins lined and denuded of hair from the fellmonger), together possibly with horse skins, seal skins, calf or goat skins, and to convert them into light leather by a process of tanning or "tawing." The trade has much in common with that of a tanner ; and the same person may be both a tanner and a leather dresser. If skins as well as pelts are received by the leather dresser, they have to be subjected to a preliminary process of liming and scraping, such as the fellmonger applies to sheep skins (see p. 526). Starting from this point, the principal processes are as follows :

(i.) "Breaking" or "fleshing," in which the pelts are either placed upon a curved board or "beam," and worked over on the fleshy side with a blunt knife, or (as is more usual) are placed in the "stocks,"—a box of wood or metal in which they are worked regularly and steadily over and over with heavy hammers moved by machinery. The pieces removed by hand are called "fleshings."

(ii.) Liming, or steeping in pits containing milk of lime.

(iii.) "Puring," in which, in order to soften the skins, they are steeped for a longer or shorter time in tubs or tanks, known as "bates," containing a solution of "puer" (dogs' dung collected from kennels).

(iv.) Tanning or "tawing," the former consisting in the soaking of the skins in a bath of tan liquor, and the latter in treating them (as in the case of calf-kid and glove-kid) with a mixture, the most active ingredients in which are salt and alum.

General management of premises.—The purpose of clause 24 is similar to that of clause 19 in the byelaws relating to the trade of a tanner (see p. 529), with which, *mutatis mutandis*, it is identical in point of form. It may be thought desirable to limit the operation of the first paragraph of this clause to parts of the premises on which wet processes have been carried on during the day. The words "and cleansed" might be added after "swept," and the periods for removal might be prescribed as suggested in the note on clause 19.

25. Every leather dresser shall cause every beam or board, and every knife or other implement or apparatus used in the breaking or scraping of any pelt upon the premises where his trade is carried on to be cleansed from time to time as often as may be necessary to prevent any accumulation of filth upon the beam, board, knife, implement or apparatus. Cleansing of implements and apparatus.

Cleansing of implements and apparatus.—The beams or boards here referred to are those used in breaking or fleshing the pelts by hand.

26. Every leather dresser shall cause every part of the interior and exterior of every tub or other vessel or receptacle used upon the premises where his trade is carried on to hold a solution of the material known as "puer" to be thoroughly cleansed by scrubbing or by some other effectual means once at least in *every week*. Cleansing of puer tubs.

Cleansing of puer tubs.—Under any circumstances the process of "puring" is an offensive and disgusting one. Too much pains, therefore, can scarcely be taken to secure that the tubs, tanks, etc., used to contain the mixture shall not become unnecessarily foul by neglect of regular and proper cleansing.

27. Every leather dresser shall cause all waste lime which has been taken out of any pit upon the premises where his trade is carried on to be forthwith deposited in suitable vessels or receptacles, or in a properly constructed cart or carriage, which, when filled or loaded, shall be covered in such a manner as to prevent the emission of noxious or injurious effluvia from the contents thereof, and shall, with all reasonable dispatch, be removed from the premises. Removal of waste lime.

28. Every leather dresser shall cause all filth which has been splashed upon any part of the internal surface of any wall of any building upon the premises where his trade is carried on to be removed by scraping or by some other effectual means of cleansing at least twice in *every year*, that is to say, at least once during the periods between the *first* and *twenty-first* day of *March*, and the *first* and *twenty-first* day of *September*, respectively. Cleansing of walls.

He shall at the same time cause every part of the interior above the floor or pavement of the building to be thoroughly washed with hot lime-wash. Lime-washing.

Lime-washing, etc.—It might be considered whether this byelaw need apply to any building used solely for the storage of leather.

Repair of walls, floors, etc.

29. Every leather dresser shall cause every part of the internal surface of the walls of any building and every floor or pavement upon the premises where his trade is carried on to be kept at all times in good order and repair, so as to prevent the absorption therein of any liquid filth or refuse, or any noxious or injurious matter which may be splashed or may fall or be deposited thereon.

With respect to the trade of a soap boiler.

Storage of materials.

30. Every soap boiler shall cause all materials which have been received upon the premises where his trade is carried on, and which are not required for immediate use, to be stored in such a manner and in such a situation as to prevent the emission of noxious or injurious effluvia therefrom.

Trade of a soap boiler.—The process of soap making may briefly be described as the bringing about a combination of fatty matter with soda or potash. When soda is used, a "hard-soap" is produced; while for the production of "soft-soap," potash must be used to the almost entire exclusion of soda. The combination is effected by heating various animal or vegetable fats or oils with a caustic lye of soda or potash, as the case may be. The actual process of soap making is not now, in well managed works, a source of very great nuisance. Offensive effluvia are chiefly occasioned by preliminary operations, such as the refining, purifying and bleaching of fats to be employed in the manufacture of soap; and the remedy for this is the same as that described in clause 31, viz., to draw off all the vapours, and either pass them through a fire or condense them by the agency of water. Where a soap maker renders butcher's fat or kitchen fat upon his premises for the production of tallow to be used in the manufacture of soap, the byelaws as to the trade of a tallow melter (pp. 534—536) will apply, and if he extracts bone fat for this purpose, the clauses as to a bone boiler (pp. 524—526) will be applicable.

Storage of materials.—The fatty materials received at soap works are extremely various in character. They embrace tallow, either imported or such as is produced in this country from the rendering of butcher's fat or kitchen stuff; fat produced by the boiling of bones; refuse fat from glue making; ship's fat, etc., besides several kinds of vegetable fats or oils. The amount of nuisance occasioned by the process of soap boiling depends, to some extent, upon the condition of the various fats when they reach the boiling pans. When fats which already have an offensive odour are thrown into the pans and melted, the vapours evolved are very offensive. Hence it is most desirable, with a view to the prevention or diminution of the noxious effects of the trade, that all materials received at the works which are likely by improper keeping to become offensive, should be stored, so far as possible, in such a manner as to prevent this condition arising. The actual arrangements for storage must necessarily vary according to the circumstances of the case.

31. Every soap-boiler shall adopt the best practicable means of rendering innocuous all vapour emitted, during the process of melting or boiling any materials, from the contents of any cask, tank, or pan upon the premises where his trade is carried on. Emission o vapour.

He shall, in every case, cause the vapour to pass directly from the cask, tank, or pan through a fire, or into a suitable condensing apparatus, or through a suitable condensing apparatus and then through a fire in such a manner as effectually to consume the vapour, or to deprive the same of all noxious or injurious properties.

Emission of vapour from soap works.—As stated above, in the note on clause 30, the amount of effluvium arising from the process of soap boiling depends partly upon the condition of the materials when placed in the pans. Apart from this, where fish oil, ship's fat, or other fats which have an offensive odour are used, the vapours from the boiling pans may be very offensive, and it is essential, in the case of every soap manufactory, that such arrangements shall be in operation as will ensure the vapours being rendered innocuous before being passed into the atmosphere. Nuisance also arises from the melting of tallow and other solid fats out of the casks in which they are received at the works into tanks, previous to boiling. In each case the only effectual remedy is to draw off the vapours (for which purpose a fan should be used, if necessary), and to pass them through a fire, or into water.

With respect to the trade of a tallow melter.

32. Every tallow-melter shall cause all materials which have been received upon the premises where his trade is carried on, and which are not immediately required for melting, to be stored in such a manner and in such a situation as to prevent the emission of noxious or injurious effluvia therefrom. Storage of materials.

Trade of a tallow melter.—"Tallow" is the name given to animal fat which has been separated from the cellular tissue in which it is confined. The production of tallow is effected by the process termed "rendering," and consists in heating the fat, either in an open pan, or in a closed vessel, and either over a fire or by means of steam. The purest tallow is produced from butcher's fat; but kitchen stuff and other waste fats are rendered for the production of the coarser kinds used by soap makers, etc. In all cases it is desirable to render the fat in as fresh a condition as possible, with a view to the prevention of nuisance, as well as to prevent injury to the colour, etc., of the tallow. (See note on clause 37, *post*.)

Storage of materials.—Where fat may be received at a tallow or fat melter's (see clauses 37 *et seq.*) which cannot be rendered immediately, it should be so stored as to prevent, as far as possible, the fat becoming putrid. From

various causes, however,—depending, for example, upon the state of the weather, the length of time it has been kept, or the way in which it has been packed,—much of the material received at the works, even if we refer only to butcher's fat, must already be more or less tainted. Arrangements should in all cases be made, therefore, for the prevention of the emission of effluvia from the materials in store. Dr. Ballard, in his report on Effluvium Nuisances, recommends that "offensive kinds of fat that can be covered up, such as kitchen stuff, be so covered, or stored in a chamber or closet communicating with the external air only through the medium of a screen containing wood charcoal . . . Fresh fat that is not about to be rendered immediately should," he says, "be hung upon hooks in the store-room, and the cleaner and sweeter this room is the more likely is the fat to remain sweet."

Cleansing of floors and pavements.

33. Every tallow melter shall, at the close of every working day, cause all tallow, grease, refuse, or filth which has been spilled or splashed, or has fallen or been deposited upon any floor or pavement upon the premises where his trade is carried on to be removed therefrom by scraping or some other effectual means of cleansing.

Cleansing of floors and pavements.—This, like other provisions in the model series, aims at dispelling the belief—once, to all appearances, widely diffused—that dirty trades must necessarily be carried on in a dirty manner. The scraps and litter gathered up should be placed in properly covered receptacles.

Cleansing and lime-washing of walls.

34. Every tallow melter shall cause the internal surface of every wall of any building upon the premises where his trade is carried on to be thoroughly cleansed, and, after being so cleansed, to be thoroughly washed with hot limewash twice at least in *every year*, that is to say, at least once during the periods between the *first* and *twenty-first* day of *March*, and the *first* and *twenty-first* day of *September* respectively.

Walls, floors and pavements to be kept in repair.

35. Every tallow-melter shall cause every part of the internal surface of the walls of any building and every floor or pavement upon the premises where his trade is carried on to be kept at all times in good order and repair, so as to prevent the absorption therein of any liquid filth, or refuse, or any noxious or injurious matter which may be splashed or may fall or be deposited thereon.

Emission of vapour.

36. Every tallow melter shall adopt the best practicable means of rendering innocuous all vapour emitted, during the process of melting, from the contents of any pan upon the premises where his trade is carried on.

He shall, in every case, either cause the vapour to be discharged into the external air in such a manner and at such a height as to admit of the diffusion of the vapour without noxious or injurious effects, or shall cause the vapour to pass directly from the pan through a fire, or into a suitable condensing apparatus, or through a suitable condensing apparatus and then through a fire in such a manner as effectually to consume the vapour, or to deprive the same of all noxious or injurious properties.

With respect to the trade of a fat melter or fat extractor.

Storage of materials

37. Every fat melter or fat extractor shall cause all materials which have been received upon the premises where his trade is carried on, and which are not immediately required for melting or extracting to be stored in such a manner and in such a situation as to prevent the emission of noxious or injurious effluvia therefrom.

Trade of a fat melter or fat extractor.—Fat melting in its various branches includes the rendering of beef, mutton, and pigs' fat, and of kitchen stuff and other similar refuse fats, for the purpose of making soap, tallow, lard, waggon-grease, candles, etc. The most important kinds of fat melting, as regards the amount of nuisance occasioned, are the rendering of butcher's fat and kitchen stuff. In some establishments, the rendering is confined to one or other of these two kinds; but in others both kinds are rendered. The usual method is to place the fat in a pan over an open fire. In certain cases dilute sulphuric acid is added to the contents of the pan and the boiling is effected by steam; but there is a prejudice against tallow in the preparation of which chemicals have been employed, although this method is preferable to rendering by fire, so far as the amount of nuisance is concerned. See clauses 32—36, relating to the trade of a tallow melter.

Cleansing of floors and pavements.

38. Every fat melter or fat extractor shall, at the close of every working day, cause all fat, tallow, grease, refuse or filth which has been spilled or splashed, or has fallen or been deposited upon any floor or pavement upon the premises where his trade is carried on to be removed therefrom by scraping or some other effectual means of cleansing.

Cleansing and lime-washing of walls.

39. Every fat melter or fat extractor shall cause the internal surface of every wall of any building upon the premises where his trade is carried on to be thoroughly cleansed, and, after being so cleansed, to be thoroughly washed with hot lime-wash twice at least in *every year*, that is to say, at least once during

the periods between the *first* and *twenty-first* day of *March*, and the *first* and *twenty-first* day of *September*, respectively.

Repair of walls, floors, etc.

40. Every fat melter or fat extractor shall cause every part of the internal surface of the walls of any building and every floor or pavement upon the premises where his trade is carried on to be kept at all times in good order and repair, so as to prevent the absorption therein of any liquid filth, or refuse, or any noxious or injurious matter which may be splashed or may fall or be deposited thereon.

Emission of vapour.

41. Every fat melter or fat extractor shall adopt the best practicable means of rendering innocuous all vapour emitted, during the process of melting or extracting, or during the process of greaves pressing, from the contents of any pan or press upon the premises where his trade is carried on.

He shall, in every case, either cause the vapour to be discharged into the external air in such a manner and at such a height as to admit of the diffusion of the vapour without noxious or injurious effects, or shall cause the vapour to pass directly from the pan or press through a fire, or into a suitable condensing apparatus, or through a suitable condensing apparatus and then through a fire in such a manner as effectually to consume the vapour, or to deprive the same of all noxious or injurious properties.

Greaves pressing.—When the rendering is completed, and as much as possible of the fat has been run off or ladled out, the residue in the pans is placed in cloths, and subjected to pressure. This presses out the remaining fat and converts the solid matter into a dry cake known as "greaves." "Greaves pressing" is usually a source of greater or less nuisance, because it has to be performed while the tallow is liquid, and hot enough to give off offensive vapours. The operation should therefore be conducted under cover, the apparatus, where necessary, being boxed in in such a manner that all vapour is carried into a chimney, discharging at a sufficient height.

With respect to the trade of a tripe boiler.

Cleansing of floors and pavements.

42. Every tripe boiler shall, at the close of every working day, cause every floor or pavement upon the premises where his trade is carried on to be thoroughly washed.

Trade of a tripe boiler.—"Tripes" are the first stomachs of sheep and oxen. They are prepared for human food, after having been emptied of their contents (usually at the slaughter-house) by a three-fold process of washing or scalding, scraping and boiling. The trade of a tripe boiler is one

which is often carried on in comparatively mean surroundings, and by poor persons. The business is frequently conjoined with that of the boiling of sheeps' trotters and ox feet, and the preparation of neat's foot oil. A description of these processes will be found in Dr. Ballard's report.*

Cleansing of benches and tables.

43. Every tripe boiler shall, at the close of every working day, cause every bench or table used upon the premises where his trade is carried on for the scraping of any tripe to be thoroughly cleansed by scrubbing or by some other effectual means.

Cleansing of walls.

44. Every tripe boiler shall, at the close of every working day, cause all filth which has been splashed upon any part of the internal surface of any wall of any building upon the premises where his trade is carried on to be removed by washing or by some other effectual means.

Lime-washing.

He shall also cause every part of the interior above the floor or pavement of the building to be thoroughly washed with hot lime-wash four times at least in *every year*, that is to say, at least once during the periods between the *first* and *tenth* day of *March*, the *first* and *tenth* day of *June*, the *first* and *tenth* day of *September*, and the *first* and *tenth* day of *December*, respectively.

Cleanliness of premises.—"Habitual cleanliness," elsewhere referred to as one of the principal matters aimed at in the model series as to offensive trades, will, in the case of tripe boiling, go far towards obviating nuisance from the trade. All floors and pavements should be thoroughly washed, and all benches or tables on which the operation of scraping the tripe is performed carefully scrubbed once a day. The walls, where splashed with filth, should also be carefully cleansed every day; and every part of the interior, except such part of the walls as may be covered with a material capable of being washed, should be periodically lime-whited.

Collection and removal of refuse.

45. Every tripe boiler shall provide a sufficient number of vessels or receptacles, properly constructed of galvanized iron, or of some other non-absorbent material, and furnished with closely fitting covers, for the purpose of receiving and conveying from the premises where his trade is carried on manure, garbage, inedible offal, filth or refuse.

He shall, at the close of every working day, cause all manure, garbage, inedible offal, filth, or refuse which has fallen or been

* See also Offensive and Noxious Businesses. By Dr. T. Whiteside Hime, in Drs. Stevenson and Murphy's Treatise on Hygiene and Public Health.

deposited upon any part of the premises and which is not intended to be forthwith subjected to any further trade process upon the premises to be collected in the vessels or receptacles so provided and to be removed from the premises with all reasonable dispatch.

He shall cause the several vessels or receptacles, when not in actual use, to be kept thoroughly clean.

Collection and removal of refuse.—Dr. Ballard, in his report on Effluvium Nuisances, frequently refers to the "general offensive odour," arising from establishments where animal matters are dropped and spilt about the floor, or when accumulations of decomposing refuse matters are kept upon the premises. To obviate this in the case of a tripe boiling establishment, all manure, garbage, inedible offal, etc., should be placed in non-absorbent receptacles, and be daily removed in these receptacles from the premises.

Walls, floors and pavements to be kept in repair.

46. Every tripe boiler shall cause every part of the internal surface of the walls of any building, and every floor or pavement upon the premises where his trade is carried on to be kept at all times in good order and repair, so as to prevent the absorption therein of any liquid filth or refuse, or any noxious or injurious matter which may be splashed or may fall or be deposited thereon.

Vapours to be rendered innocuous.

47. Every tripe boiler shall adopt the best practicable means of rendering innocuous all vapour emitted, during the process of boiling, from the contents of any pan upon the premises where his trade is carried on.

He shall, in every case, either cause the vapour to be discharged into the external air in such a manner and at such a height as to admit of the diffusion of the vapour without noxious or injurious effects, or shall cause the vapour to pass directly from the pan through a fire, or into a suitable condensing apparatus, or through a suitable condensing apparatus, and then through a fire in such a manner as effectually to consume the vapour, or to deprive the same of all noxious or injurious properties.

Vapours emitted during boiling.—The vapours arising from the boiling pans are probably the chief cause of nuisance in connection with the trade of a tripe boiler. It is impossible to avoid the emission of such vapours, but something can be done to render them innocuous. Dr. Ballard suggests in his report that in small tripe boiling establishments "it may suffice to conduct the boiling operations beneath a hopper brought down sufficiently low, and closed in at the sides of the boiler, and to conduct the steam, issuing at times when the boiler is open for the removal of any of its contents, into a chimney with a good draught, and discharging itself at an elevation above the level of

the adjoining houses. But the boiler itself should be provided with a lid, and there should be a pipe to convey the steam from the space immediately under the lid into the ashpit of the fire, which ashpit should be provided with a well-fitting door." In the larger establishments the plan of condensing the vapour may be followed, with or without passing it subsequently through a furnace.

48. Every tripe boiler shall cause all liquid refuse, before being discharged into any drain, from any part of the premises where his trade is carried on to be cooled in such a manner as to prevent the emission of noxious or injurious effluvia therefrom. Liquid refuse to be cooled.

Discharge of liquid refuse into drains.—In tripe boiling, when the tripe is sufficiently cooked it is hung up to cool, while the liquor is run off and discharged into the drains. If the liquor is so discharged in a hot, or perhaps boiling, state, some nuisance must almost necessarily be occasioned. See, as regards places where Part III. of the Public Health Acts Amendment Act, 1890, has been adopted by an urban authority, the provisions contained in s. 17 of that Act.

With respect to the trade of a glue maker.

49. A glue maker shall not cause or suffer any moist materials which, by reason of decomposition, have become useless for the purpose of glue making to be kept for a longer time than may be necessary in any part of the premises where his trade is carried on. Retention of decomposed materials.

Trade of a glue maker.—In the preparation of glue various materials, comprising almost every kind of waste animal tissue, are made use of. Among these may be mentioned bones from which the fat has been extracted by boiling, hoofs, horns, scraps of leather, and pieces cut off during the preparation of skins for leather. Most of the materials when they reach the works of the glue maker require to be limed. After liming they are washed, and then boiled. During the boiling, the fat which rises to the surface is skimmed off; and when the boiling is completed, and sufficient time has been allowed for the liquid glue to settle and partially cool, it is drawn off into wooden troughs in which it solidifies into a firm jelly or size. The glue is then cut into slices, and the slices dried. The residual product of the boiling is known as "scutch," and finds its way to the manure makers.

Retention of decomposed fleshings, etc.—Moist "fleshings" received from the works of the tanner or leather dresser,* and other decomposable materials, should never be retained by the glue maker upon his premises any longer than can be helped. Among the materials received by him there must always be a quantity in which slight putrefactive changes have taken place, although the decomposition may not be sufficient to make the material unfit for

* For the model byelaws as to the trades of a tanner and a leather dresser, see pp. 529—533.

glue making; and further keeping involves the risk of nuisance. The storage of any material which cannot be used immediately is regulated by clause 50 of this series. Clause 49 requires that no moist materials, which, either before or after their arrival at the yard, may have become useless for glue making, shall be kept upon the premises any longer than is necessary.

Storage of moist materials.

50. Every glue maker shall cause all moist materials which have been received upon the premises where his trade is carried on, and which are not required for immediate use, to be stored in such a manner and in such a situation as to prevent the emission of noxious or injurious effluvia therefrom.

He shall, where practicable, cause the materials to be dried before being deposited in that part of the premises which has been appropriated for the storage thereof.

In every case, where by reason of the state of the weather or for any other sufficient cause it may be impracticable to dry the materials, he shall cause the several pieces to be subjected to the action of a sufficient quantity of milk of lime, and to be closely stacked.

Storage of moist materials.—It may not always be possible for the glue maker to at once make use of all fleshings, etc., received at his works. Where this is the case, the best plan appears to be to dry the materials; but in certain states of the weather, or where for other reasons it may be impracticable to dry them, it becomes necessary to stack the goods. This process requires great care. Each successive layer of a few inches in thickness must be liberally treated with milk of lime, and no hollow places must be left in the stack, or the pieces will soon become tainted. If, however, the material be sufficiently fresh when stacked, and the stack be properly formed and suitably placed, not only will the material be very little depreciated in value (even though kept for several months), but it will be found to occasion no nuisance whatever.

Collection and removal of scutch, etc.

51. Every glue maker shall cause all scutch, residue, or refuse which has been removed from any boiling pan upon the premises where his trade is carried on, and which is not intended to be forthwith subjected to any further trade process upon the premises, to be deposited, immediately after removal from the pan, in a suitable chamber or shed, and in such a manner as to prevent the emission of any noxious or injurious effluvia from the scutch, residue or refuse so deposited; or to be placed, immediately after removal from the pan, in bags or sacks, casks or barrels, which, when filled, shall be closed and fastened or covered in such a manner as to prevent the emission of noxious or injurious effluvia from the contents thereof.

In every case, where the scutch, residue, or refuse has been deposited in a chamber or shed, he shall cause all the contents thereof to be removed from the premises within *forty-eight hours* after the deposit of the same in the chamber or shed.

Collection and removal of scutch, etc.—The unnecessary accumulation of scutch upon the premises should be avoided by the systematic removal of all such refuse within two days, at the outside, after it is taken out of the boilers. "It ought," says Dr. Ballard in his report, "either to be put at once into hogsheads, and fastened down for removal; or, until it is removed in covered carts or barges, or in hogsheads, it should be deposited neatly in an appropriate chamber or shed, and not be allowed to be retained even there above a day or two, especially in warm or muggy weather." A form of scutch shed recommended by Dr. Ballard is open on one side. Within the shed is a raised platform on which the scutch is laid. The place is ventilated by louvres in the walls and roof, and a screen in front of the open side hides the deposit from view.

Cleansing of floors and pavements.

52. Every glue maker shall, at the close of every working day, cause every floor or pavement upon the premises where his trade is carried on to be thoroughly swept.

He shall cause every floor or pavement elsewhere than in that part of the premises where the processes of drying and packing are carried on to be thoroughly washed once at least in *every week*.

Collection of fragments in receptacles.

53. Every glue maker shall, at the close of every working day, cause every fragment of glue, or of any material used in glue-making, which has fallen or been deposited upon any part of the premises where his trade is carried on to be collected and placed in a suitable receptacle.

Collection of scraps.—Scraps of fleshings, etc., or of gelatinous glue, should not be allowed to lie upon the ground to be trodden under foot, and, in the case of soft materials, to putrefy where they lie. All such scraps should be gathered up in proper receptacles for return to the boilers. Some waste will thus be avoided, and the "general effluvia" from the works will be diminished.

Cleansing of pans, tanks, etc.

54. Every glue maker shall cause the interior and exterior of every boiling pan, and of every tank, vat, trough or other receptacle upon the premises where his trade is carried on to be thoroughly cleansed from time to time as often as may be necessary to prevent any accumulation of filth in or upon the pan, tank, vat, trough, or receptacle.

Cleansing of boilers, etc.—The observance of the requirements of this clause can easily be provided for by the glue maker by proper regulations for

the management of his works, and will tend to promote a general condition of cleanliness and tidiness in the conduct of the business.

Removal of waste lime.

55. Every glue maker shall cause all waste lime which has been taken out of any pit upon the premises where his trade is carried on to be forthwith deposited in suitable vessels or receptacles, or in a properly constructed cart or carriage, which, when filled or loaded, shall be covered in such a manner as to prevent the emission of noxious or injurious effluvia from the contents thereof, and shall, with all reasonable dispatch, be removed from the premises.

Floors and pavements to be kept in repair.

56. Every glue maker shall cause every floor or pavement upon the premises where his trade is carried on to be kept at all times in good order and repair, so as to prevent the absorption therein of any liquid filth or refuse, or any noxious or injurious matter which may fall or be deposited thereon.

Lime-washing.

He shall cause every part of the internal surface of the walls and the ceiling of any building used for the process of boiling, cooling, cutting, or washing to be thoroughly washed with hot lime-wash during the period between the *first* and *thirty-first* day of *March* in every year.

Emission of gases and vapours.

57. Every glue maker shall adopt the best practicable means of rendering innocuous all gas or vapour emitted, during the process of boiling, from the contents of any pan upon the premises where his trade is carried on.

He shall, in every case, either cause the gas or vapour to be discharged into the external air in such a manner and at such a height as to admit of the diffusion of the gas or vapour without noxious or injurious effects, or shall cause the gas or vapour to pass directly from the pan through a fire or into a suitable condensing apparatus, or through a suitable condensing apparatus and then through a fire in such a manner as effectually to consume the gas or vapour or to deprive the same of all noxious or injurious properties.

With respect to the trade of a size maker.

Retention of decomposed materials.

58. A size maker shall not cause or suffer any moist materials which, by reason of decomposition, have become useless for the purpose of size making to be kept for a longer

time than may be necessary in any part of the premises where his trade is carried on.

Trade of a size maker.—The general features of the trade of a size maker are similar to those of glue making. The materials used vary according to the quality of the size to be produced. They may, as in the making of coarse size, be similar to those used in glue making, but if size of fine quality is required, careful selection is necessary, and great care must be shown in the preparation of the material. To get rid of the surplus lime, weak hydrochloric acid is used, and, after boiling, the liquid size is run out into a vat, or into small tubs for sale.

Provisions of the model byelaws.—The model clauses comprised in the present series are exactly similar to those contained in the series as to the trade of a glue maker. The notes to that series should be referred to.

Storage of moist materials.

59. Every size maker shall cause all moist materials which have been received upon the premises where his trade is carried on, and which are not required for immediate use, to be stored in such a manner and in such a situation as to prevent the emission of noxious or injurious effluvia therefrom.

He shall, where practicable, cause the materials to be dried before being deposited in that part of the premises which has been appropriated for the storage thereof.

In every case, where by reason of the state of the weather or for any other sufficient cause, it may be impracticable to dry the materials, he shall cause the several pieces to be subjected to the action of a sufficient quantity of milk of lime, and to be closely stacked.

Collection and removal of scutch, etc.

60. Every size maker shall cause all scutch, residue, or refuse which has been removed from any boiling pan upon the premises where his trade is carried on, and which is not intended to be forthwith subjected to any further trade process upon the premises, to be deposited, immediately after removal from the pan, in a suitable chamber or shed, and in such a manner as to prevent the emission of any noxious or injurious effluvia from the scutch, residue, or refuse so deposited; or to be placed, immediately after removal from the pan, in bags or sacks, casks or barrels, which, when filled, shall be closed and fastened or covered in such a manner as to prevent the emission of noxious or injurious effluvia from the contents thereof.

In every case, where the scutch, residue, or refuse has been deposited in a chamber or shed, he shall cause all the contents thereof to be removed from the premises within

forty-eight hours after the deposit of the same in the chamber or shed.

Cleansing of floors and pavements.

61. Every size maker shall, at the close of every working day, cause every floor or pavement upon the premises where his trade is carried on to be thoroughly swept.

He shall cause every floor or pavement elsewhere than in that part of the premises where the processes of drying and packing are carried on to be thoroughly washed once at least in *every week*.

Collection of fragments in receptacles.

62. Every size maker shall, at the close of every working day, cause every fragment of size, or of any material used in size making, which has fallen or been deposited upon any part of the premises where his trade is carried on to be collected and placed in a suitable receptacle.

Cleansing of pans, tanks, etc.

63. Every size maker shall cause the interior and exterior of every boiling pan, and of every tank, vat, trough, or other receptacle upon the premises where his trade is carried on to be thoroughly cleansed from time to time as often as may be necessary to prevent any accumulation of filth in or upon the pan, tank, vat, trough, or receptacle.

Removal of waste lime.

64. Every size maker shall cause all waste lime which has been taken out of any pit upon the premises where his trade is carried on to be forthwith deposited in suitable vessels or receptacles, or in a properly constructed cart or carriage, which, when filled or loaded, shall be covered in such a manner as to prevent the emission of noxious or injurious effluvia from the contents thereof, and shall, with all reasonable dispatch, be removed from the premises.

Floors and pavements to be kept in repair.

65. Every size maker shall cause every floor or pavement upon the premises where his trade is carried on to be kept at all times in good order and repair, so as to prevent the absorption therein of any liquid filth or refuse, or any noxious or injurious matter which may fall or be deposited thereon.

Lime-washing.

He shall cause every part of the internal surface of the walls and the ceiling of any building used for the process of boiling, cooling, cutting, or packing to be thoroughly washed with hot lime-wash during the period between the *first* and *thirty-first* day of *March* in every year.

66. Every size maker shall adopt the best practicable means of rendering innocuous all gas or vapour emitted, during the process of boiling, from the contents of any pan upon the premises where his trade is carried on. Emission of gases and vapours.

He shall, in every case, either cause the gas or vapour to be discharged into the external air in such a manner and at such a height as to admit of the diffusion of the gas or vapour without noxious or injurious effects, or shall cause the gas or vapour to pass directly from the pan through a fire or into a suitable condensing apparatus, or through a suitable condensing apparatus and then through a fire in such a manner as effectually to consume the gas or vapour, or to deprive the same of all noxious or injurious properties.

With respect to the trade of a gut scraper.

67. Every gut scraper shall cause all undried guts which have been received upon the premises where his trade is carried on, and which are not required for immediate use to be placed in suitable vessels or receptacles, properly constructed of galvanized iron or of some other non-absorbent material, and furnished with closely fitting covers. Reception of undried guts.

He shall cause the several vessels or receptacles in which the guts have been placed to be covered and to be kept covered until it becomes necessary to remove the contents for actual use.

Trade of a gut scraper.—The small intestines of certain animals are used for the preparation of "catgut," fiddle-strings, sausage skins, and other articles. The substance designated catgut is obtained for the most part from the sheep. Occasionally it may be prepared from the gut of horses, asses, and mules. But catgut, in the literal sense, it never is. Sausage skins are made from the gut of hogs, and from the larger ends of other guts. The preparation of gut is a process which varies according to the article to be produced. The first stage, however, is, in every case, the operation of "scraping." For some purposes, such as the making of fiddle-strings, it is essential that perfectly fresh gut should be procured ; but where this is less material, guts frequently arrive at the scraping works in an offensive condition. Dried guts already scraped are in some cases imported from abroad. Before the guts are actually scraped, for whatever purpose they may be intended, the adherent feculent and fatty matters have to be got rid of. This may be effected by passing the gut through the fingers from one tub of water into another, or the contents are evacuated by water being run through from a tap. The gut is then soaked in salt and water, and afterwards in plain water, so as to soften the tissues. The scraping is performed with the back of a knife, or a piece of wood. The scraped gut is now further steeped in water. If the gut is intended to be made into sausage skins, no further preparation is necessary

at this stage ; it has merely to be salted and packed in barrels. If, however, it is destined for the making of catgut it is steeped in a weak solution of carbonate of sodium, which is changed twice a day for seven or eight days ; and at each change it is drawn through a "thimble," or hole formed at the angle of a piece of bent copper plate, to make it smooth and equal ; and then—the smaller ends having been sewn together with a needle and thread—it is spun into cords of varying thickness by means of a kind of spinning-wheel. The twisted cord is afterwards bleached by exposing it in a close chamber to the fumes of burning sulphur, and, finally, is stretched over pegs (in the open air, but under cover) and so dried. The preparation of fiddle-strings has naturally to be conducted with great care. For this purpose the best guts only are used, and the scraped gut, after being treated for several days with an alkaline solution of progressive strength (a small quantity of alum being added to the mixture), is drawn several times through the thimble, then spun, bleached with sulphur fumes, polished by friction with horse-hair, and dried in a hot room. *

Treatment of undried guts.—All authorities agree in stating that until a comparatively recent date no industry was more repulsive than that now under consideration. The nuisance which it occasioned was connected chiefly with the steeping of the guts (which gave rise to the most offensive effluvia), and the generally filthy condition of the works on which the trade was carried on. The storage of material on the premises for any length of time should never be allowed, and whatever undried material may be about should be kept in non-absorbent receptacles. The report of Dr. Ballard shows the absolute necessity for the most scrupulous cleanliness and care at every stage of the reception and treatment of the gut. "All undried gut brought upon the premises," he says, "should be brought in impervious vessels, which should not be opened except in the chamber where they are to be manipulated . . . . Any gut which arrives in an offensive condition should at once be placed in a deodorant solution ; and some antiseptic solution should (as appears to be practicable) be used for the soaking even of fresh guts on their first arrival." That it is not only desirable, but also perfectly practicable, to treat the gut in this way is demonstrated by more recent experience, which shows that where this method is adopted the process of gut scraping ceases to be a nuisance to the neighbourhood ; that the value of the gut is not depreciated by the use of the antiseptic, and that the scraping is not thereby rendered more difficult.

Cleansing of floors and pavements during the day.

68. Every gut scraper shall, at frequent intervals during every working day, cause every floor or pavement upon the premises where his trade is carried on to be thoroughly swept and to be copiously sprinkled or washed with an effective deodorant powder or solution.

Cleansing of floors and pavements at end of day.

69. Every gut scraper shall, at the close of every working day, cause every floor or pavement upon the premises where his trade is carried on to be thoroughly cleansed.

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* See Spon's Encyclopædia of Manufactures and Raw Materials.

He shall, at the same time, cause all refuse fragments of gut, or other matter detached in the process of scraping, and all garbage, filth, or other offensive matter to be collected and placed in suitable vessels or receptacles, properly constructed of galvanized iron or of some other non-absorbent material, and furnished with closely fitting covers, and containing a sufficient quantity of a deodorant solution. Collection and removal of filth and refuse.

He shall cause the several vessels or receptacles, when filled, to be covered, and shall cause the vessels or receptacles with the contents thereof to be forthwith removed from the premises.

He shall also cause every vessel or receptacle, when not in actual use, to be kept thoroughly clean. Receptacles to be kept clean.

70. Every gut scraper shall, at the close of every working day, cause every bench or table, every tub, vessel, or utensil, and every implement which has been in use during the day upon the premises where his trade is carried on, or which is in a foul or offensive condition, to be thoroughly cleansed with water containing a deodorant. Cleansing of benches, utensils, etc.

71. Every gut scraper shall, at the close of every working day, cause all filth or refuse which has been splashed upon any part of the internal surface of any wall of any building upon the premises where his trade is carried on to be removed by scraping or by some other effectual means. Cleansing of walls.

72. Every gut scraper shall cause the ceiling and the internal surface of every wall above the floor or pavement of any building upon the premises where his trade is carried on to be thoroughly washed with hot lime-wash four times at least in *every year*, that is to say, at least once during the periods between the *first* and *tenth* day of *March*, the *first* and *tenth* day of *June*, the *first* and *tenth* day of *September*, and the *first* and *tenth* day of *December*, respectively. Lime-washing.

General conduct of business.—Clauses 68—72 of the model series are clearly based on a recommendation of Dr. Ballard to the effect that "scrupulous cleanliness should be observed" by the gut scraper in the conduct of his business. "The floor should be kept constantly sprinkled with some deodorant solution, such as of carbolic acid or chloride of lime; no unnecessary litter should be allowed, and any that may be made should be frequently swept up, and, together with refuse matters and scrapings, should be deposited, with the addition of a deodorant, in appropriate vessels made of some

impervious material, such as galvanized iron, and covered with covers of like material when not required to be open for use. At the close of each day's work the floor and walls to the height of the impervious portion should be washed down with water containing some deodorant, and all tubs, tables, benches, and utensils that have been in use should be similarly cleansed. The inner walls and ceilings should be periodically lime-washed.

Walls, floors, and pavements to be kept in repair.

73. Every gut scraper shall cause every part of the internal surface of the walls of any building and every floor or pavement upon the premises where his trade is carried on to be kept at all times in good order and repair so as to prevent the absorption therein of any liquid filth or refuse, or any noxious or injurious matter which may be splashed or may fall or be deposited thereon.

General Provisions.

Drainage.

74. Every person to whom any of the foregoing byelaws may apply shall cause every drain or means of drainage upon or in connection with the premises where his trade is carried on to be maintained at all times in good order and efficient action.

Drainage of premises.—The proper paving of the premises, and the provision of proper means of drainage, will go far, in certain respects, towards diminishing some of the noxious effects of these trades. Should the drainage be found in any case to be not "in good order and efficient action," the person carrying on the trade may in effect be required, under this byelaw, to undertake such works as are necessary to put it in proper order. With regard to structural details generally, reference should be made to the note on p. 519, as to the scope of the model byelaws.

Inspection of premises.

75. Every person to whom any of the foregoing byelaws may apply shall, at all reasonable times, afford free access to every part of the premises where his trade is carried on to the Medical Officer of Health, the Inspector of Nuisances, or the Surveyor of the Council, or to any committee specially appointed by the Council in that behalf, for the purpose of inspecting the premises.

Inspection of premises.—The necessity for constant and systematic inspection of premises where offensive trades are carried on will at once be recognised. The necessary power of entry is conferred upon "the local authority or any of their officers" by s. 102 of the Public Health Act, 1875. As far as possible the work of inspection should be left to the officers named in this byelaw. In any case where members of the district council make such inspections, they should be specially authorised by the council to do so.

Penalties.

76. Every person who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of *five pounds*, and in the case of a continuing offence to a further penalty of *forty shillings* for each day after written notice of the offence from the Council. Penalties.

Provided nevertheless that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Recovery of penalties.—As to the recovery of penalties see s. 251 of the Public Health Act, 1875, and note thereon in Lumley's Public Health, 5th ed., p. 333.

Repeal of Byelaws.

77. From and after the date of the confirmation of these byelaws, the byelaws relating to offensive trades which were made by the on the day of in the year one thousand eight hundred and , and were confirmed by [one of Her Majesty's Principal Secretaries of State] [the Local Government Board] on the day of in the year one thousand eight hundred and shall be repealed. Repeal.

Repeal of byelaws.—If this clause is not included in the series submitted to the Local Government Board for approval, it should be stated whether or not there are any byelaws in force upon the subject.

BYELAW 7.

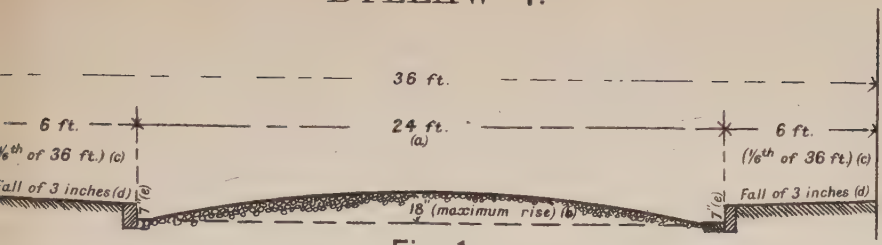


Fig. 1
Shewing Construction of a 36 ft. street (with maximum rise permissible)

BYELAW 11.

Plan

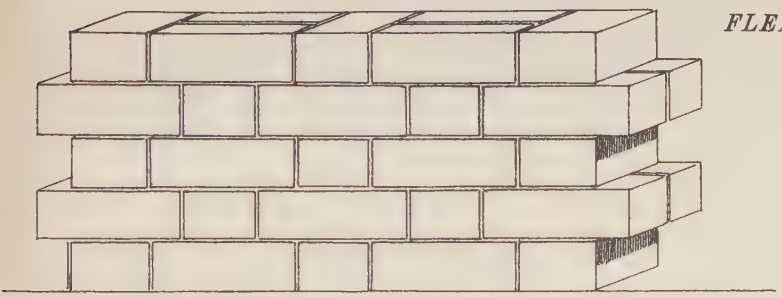
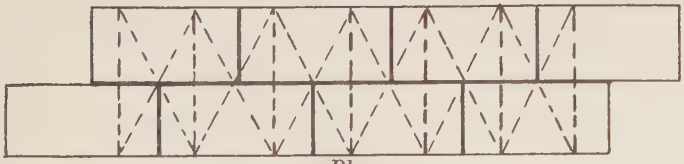
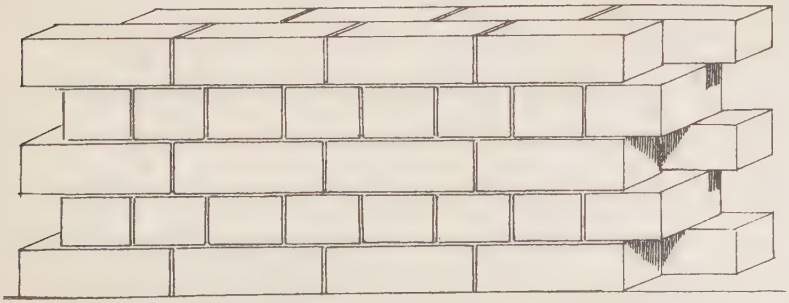


Fig. 2
FLEMISH BOND



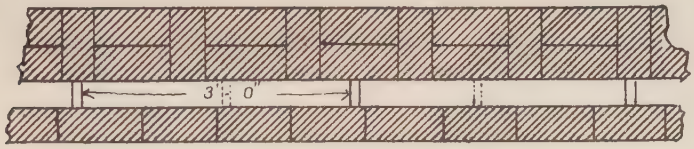
Plan

Fig. 3
ENGLISH BOND

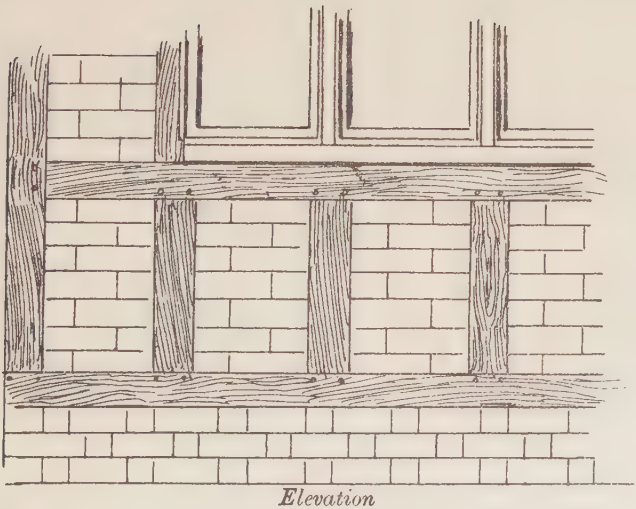


Elevation *Section*

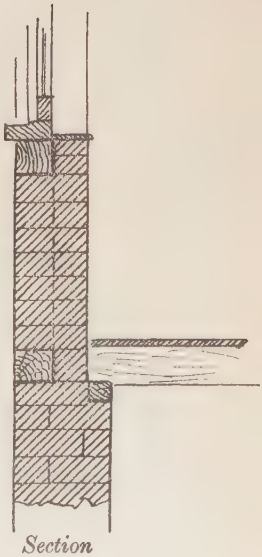
Fig. 4



HOLLOW WALL
(Plan)



Elevation



Section

Fig. 5

TIMBER FRAMED WALL
(Plan)

BYELAWS 15 & 17.

FOOTINGS and
DAMP COURSE

Fig. 6
BYELAW 15

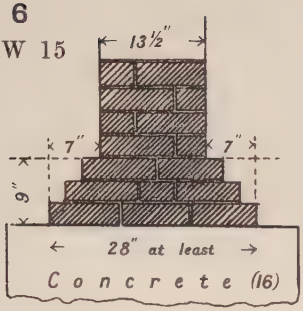


Diagram shewing footings of a 14" wall

Fig. 7
BYELAW 17

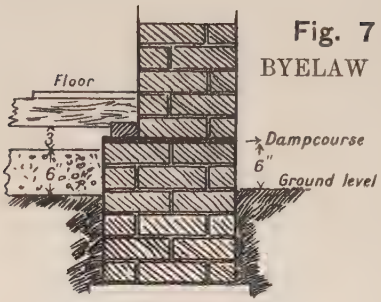


Diagram shewing position of Damp Course

Fig. 8
BYELAW 17

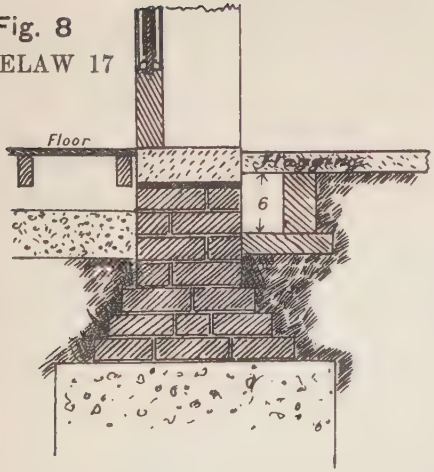


Diagram shewing Damp Course beneath a door opening where the floor is at or about the same level as the ground outside

Fig. 9
Proviso to Byelaw 17

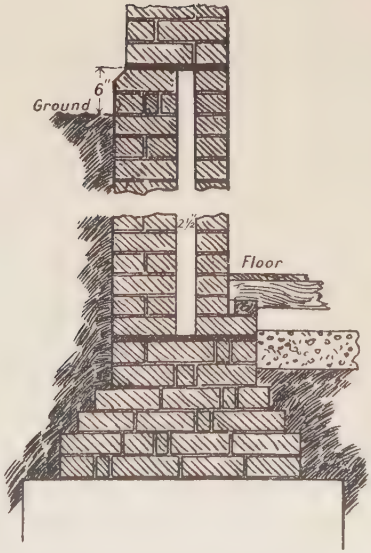
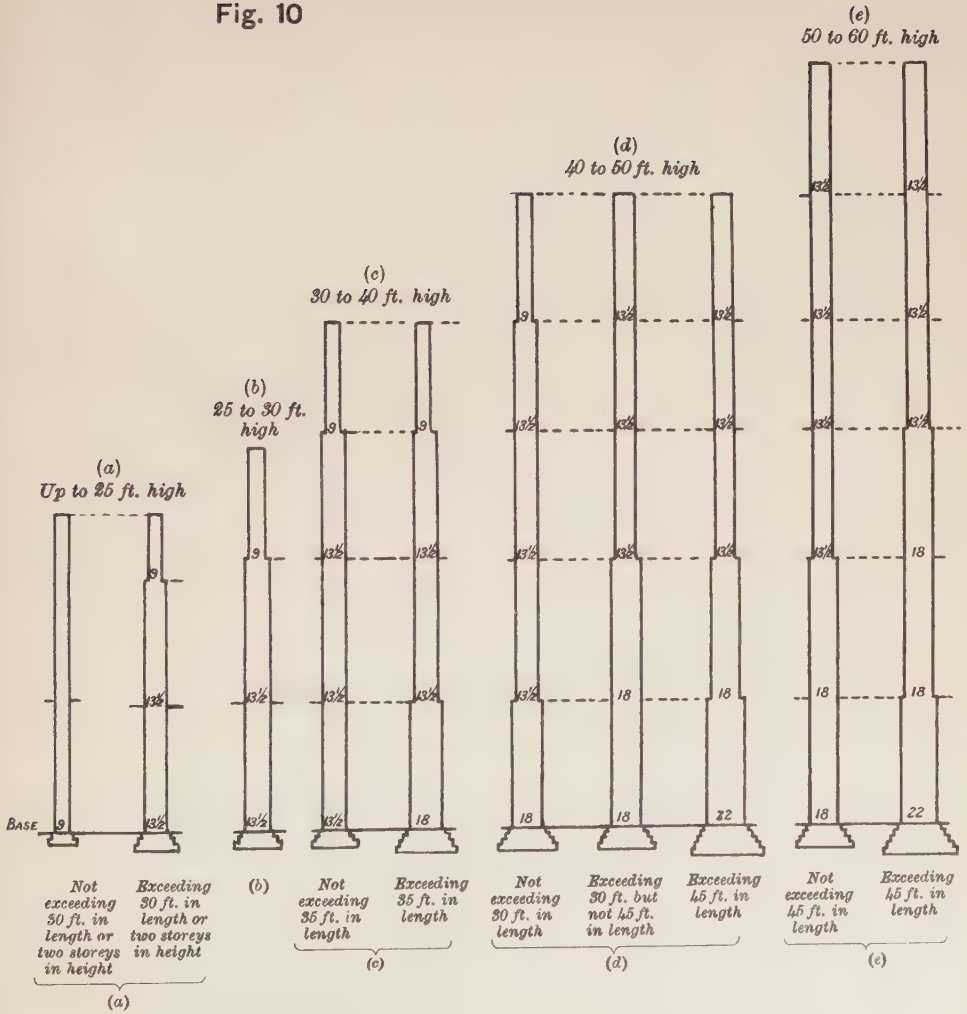


Diagram shewing position of Damp Courses where there is a basement storey

BYELAW 19.

THICKNESS OF WALLS DOMESTIC BUILDINGS

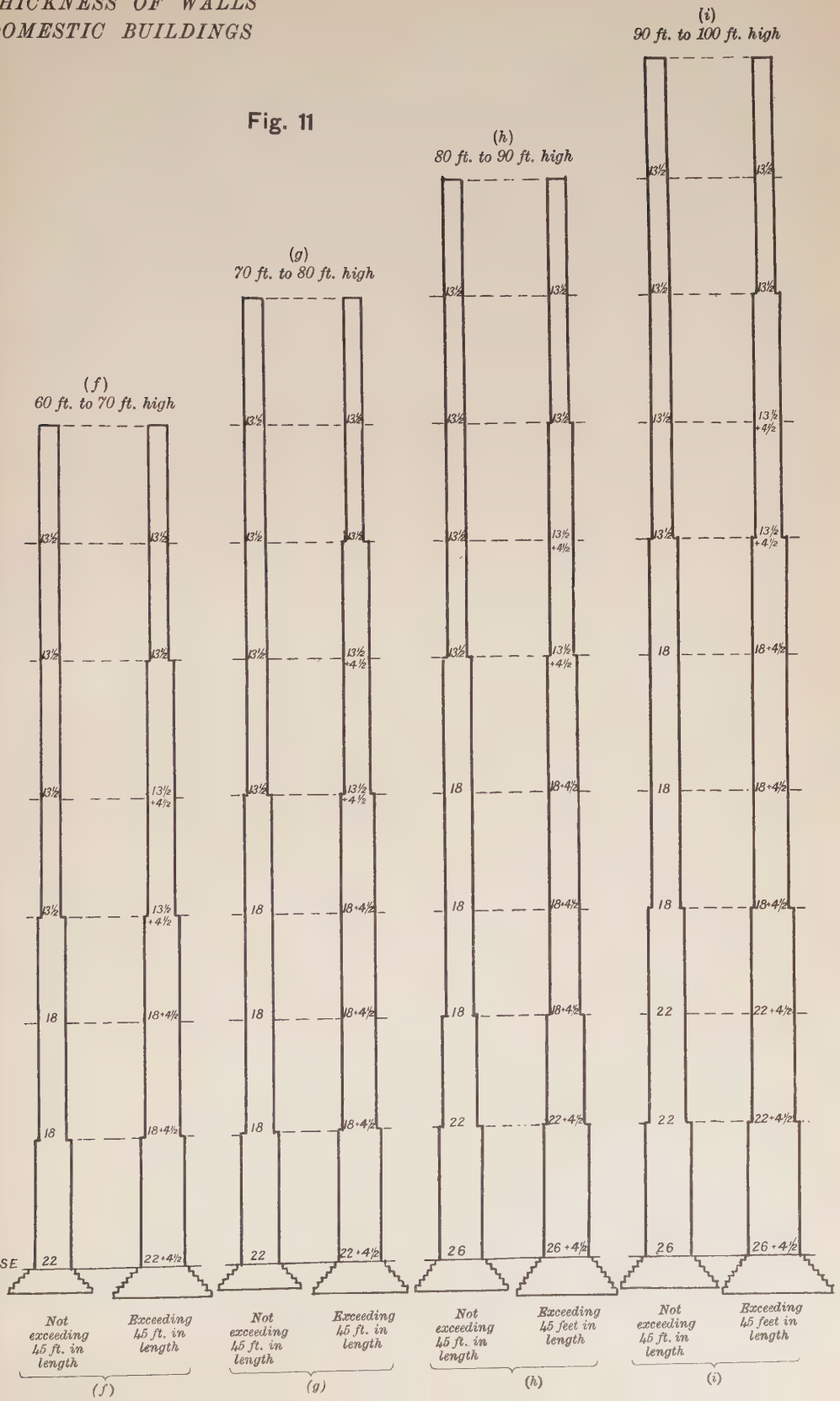
Fig. 10



BYELAW 19.

THICKNESS OF WALLS DOMESTIC BUILDINGS

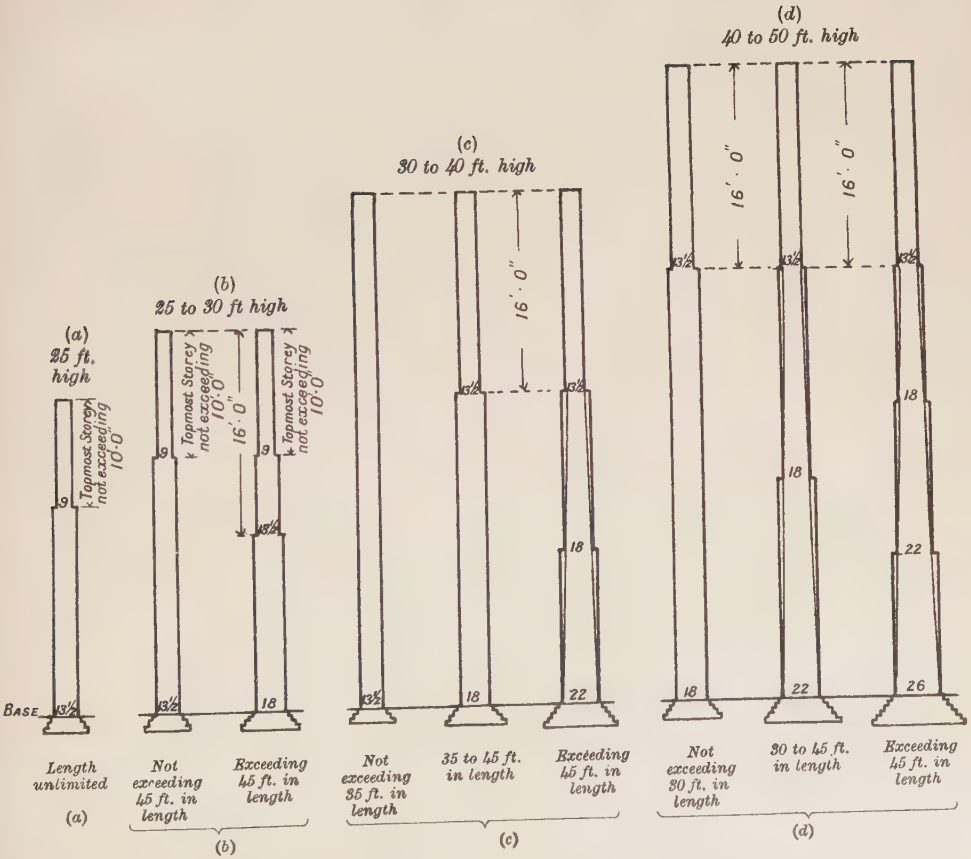
Fig. 11



BYELAW 20.

THICKNESS OF WALLS
PUBLIC AND WAREHOUSE BUILDINGS

Fig. 12



BYELAW 20.

THICKNESS OF WALLS PUBLIC AND WAREHOUSE BUILDINGS

Fig. 13

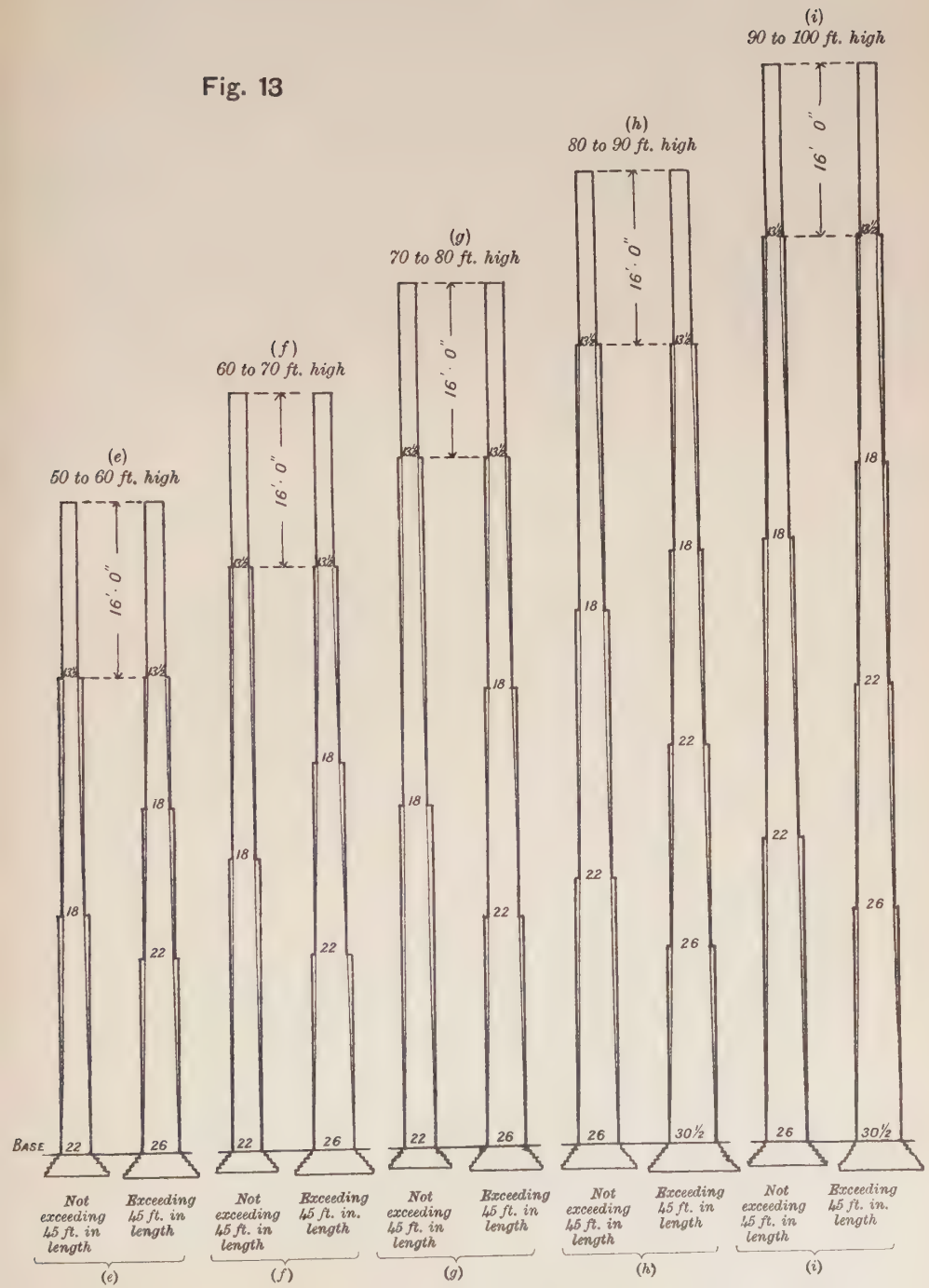


Fig. 14

BYELAW 23 (a) (b) (c).

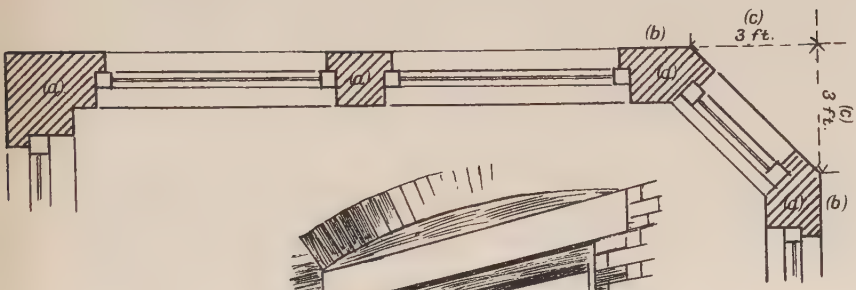


Fig. 15

BYELAW 24

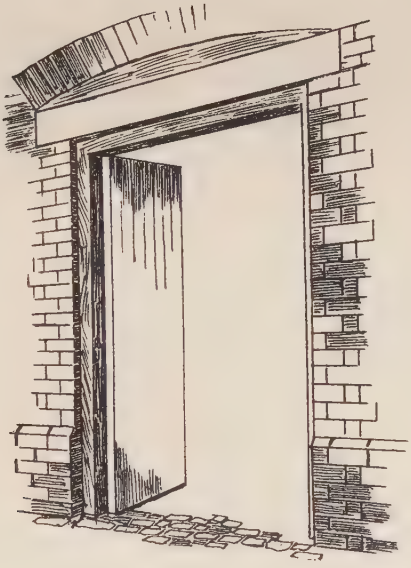
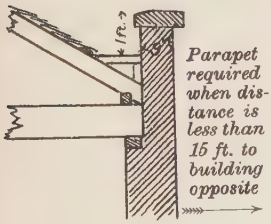


Fig. 16

BYELAW 25



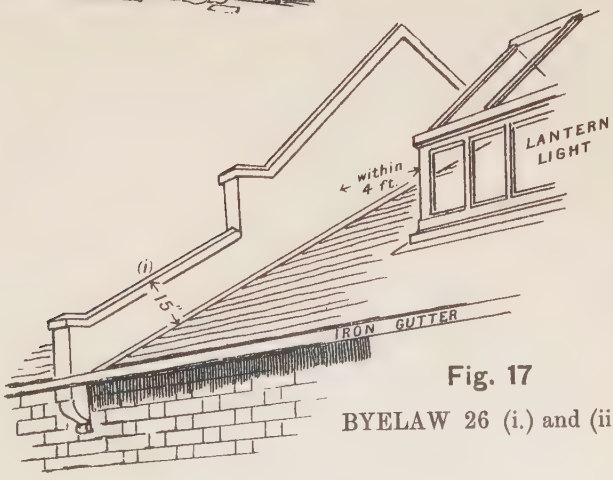


Fig. 17

BYELAW 26 (i.) and (ii.)

Fig. 18 BYELAWS 29 & 30 *RECESSES*

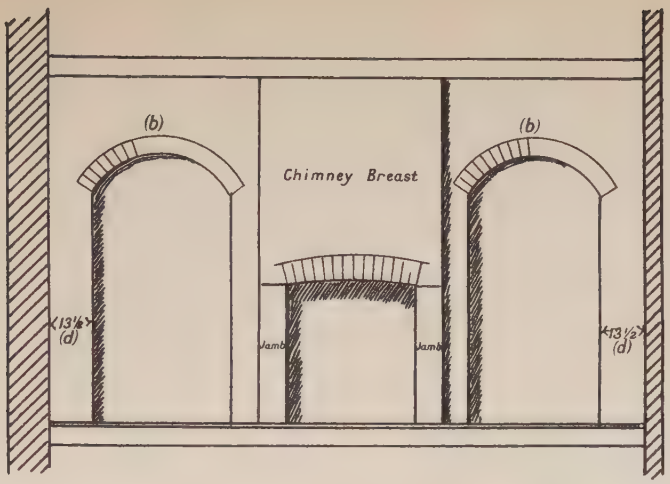
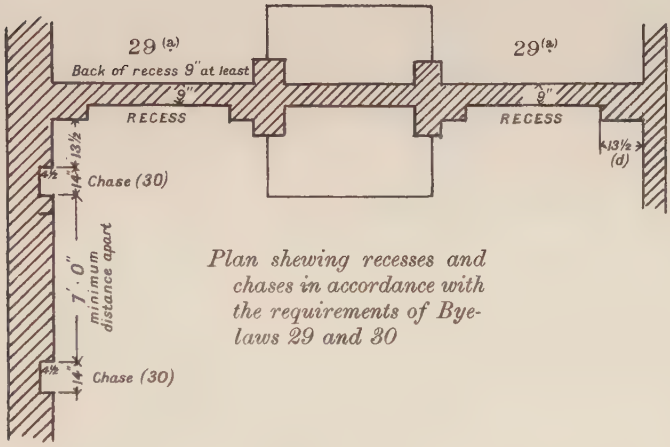


Fig. 19

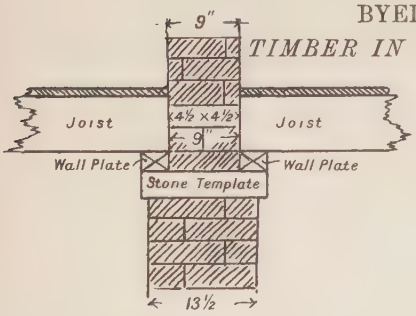


Plan shewing recesses and chases in accordance with the requirements of Bye-laws 29 and 30

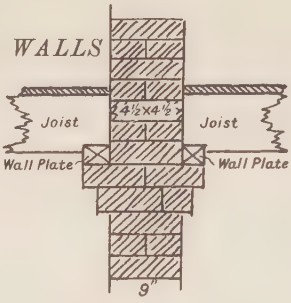
Fig. 20

BYELAW 32

TIMBER IN PARTY WALLS

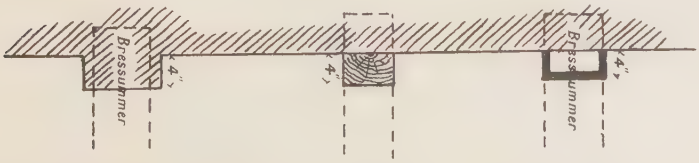


Shewing ends of joists on a 13½ inch wall



Shewing ends of joists in a 9 inch wall

Fig. 21 BYELAW 34 *STOREY POSTS, Etc.*



On a pier of brick or stone *On a storey post of timber* *On a storey post of iron*

CHIMNEYS

Fig. 22

BYELAWS 39 & 42

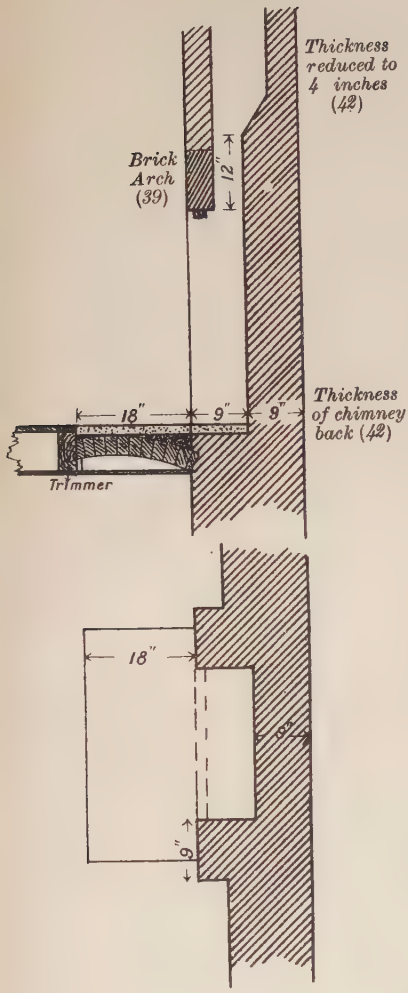


Fig. 23

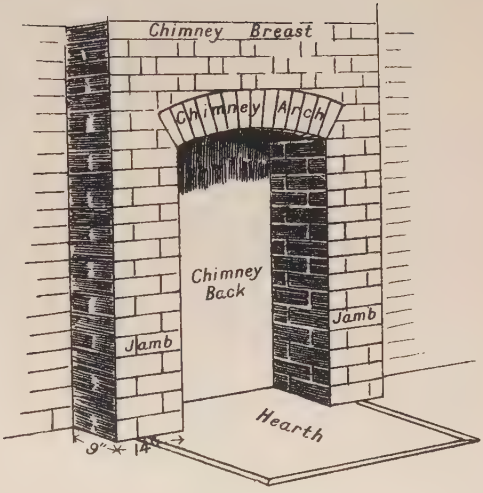
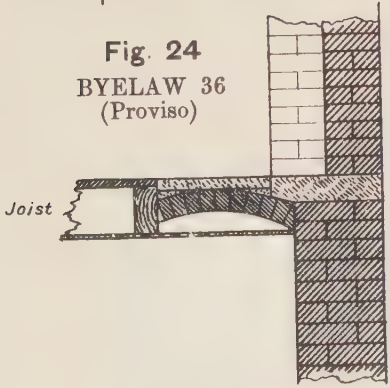


Fig. 24

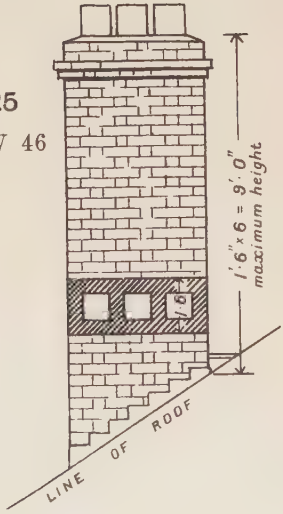
BYELAW 36
(Proviso)



CHIMNEY ON STONE CORBEL

Fig. 25

BYELAW 46

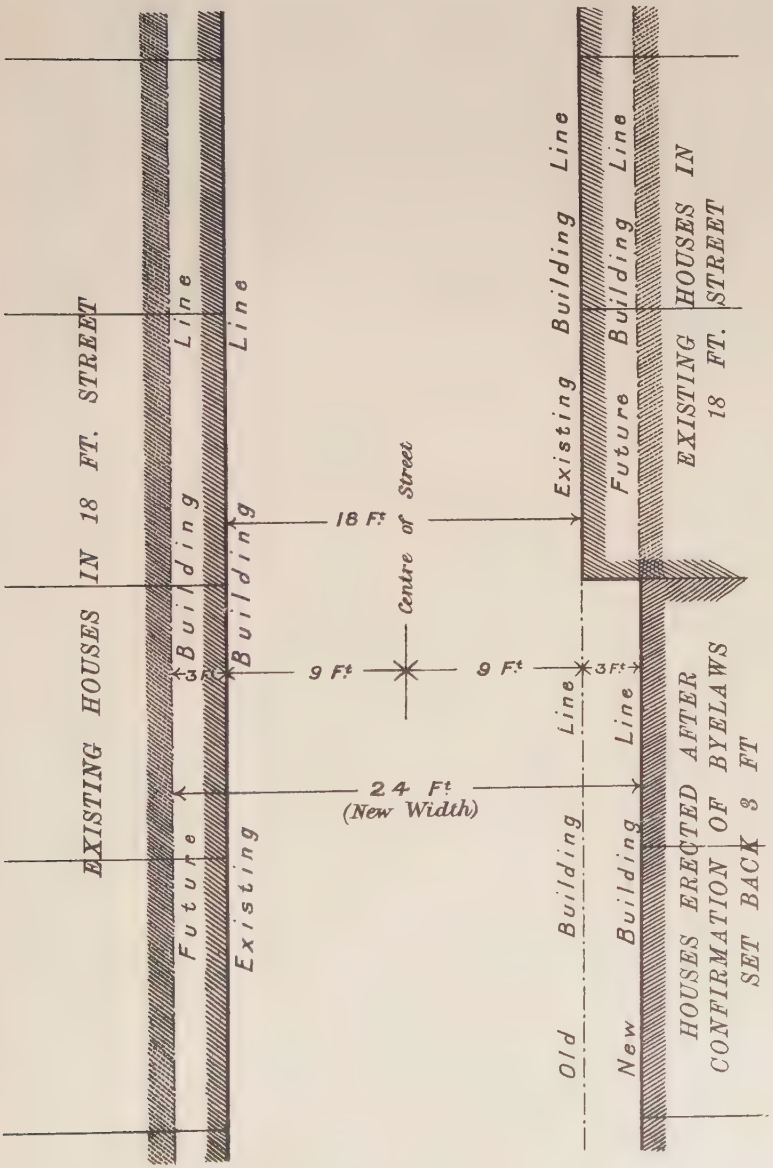


HEIGHT ABOVE ROOF

Fig. 26

BYELAW 53a.

OPEN SPACE IN FRONT OF DOMESTIC BUILDINGS



BYELAW 54

OPEN SPACE AT REAR OF DOMESTIC BUILDINGS

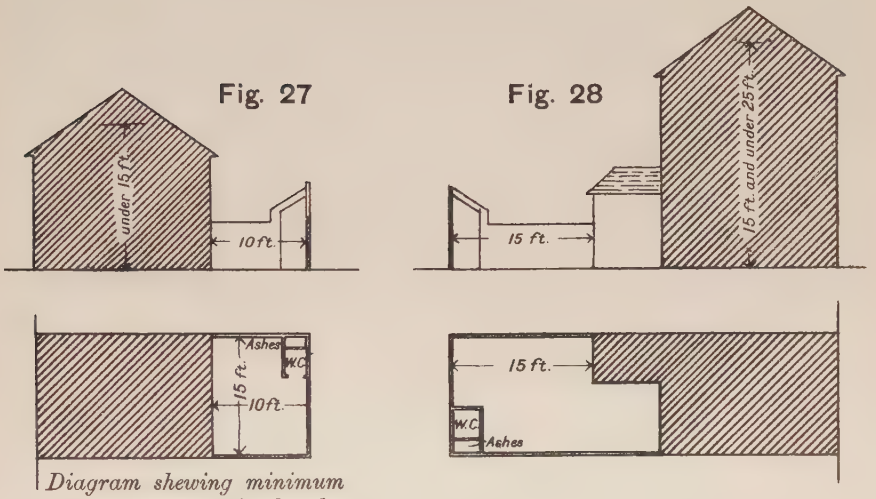


Diagram shewing minimum yard space permitted under Byelaw 54

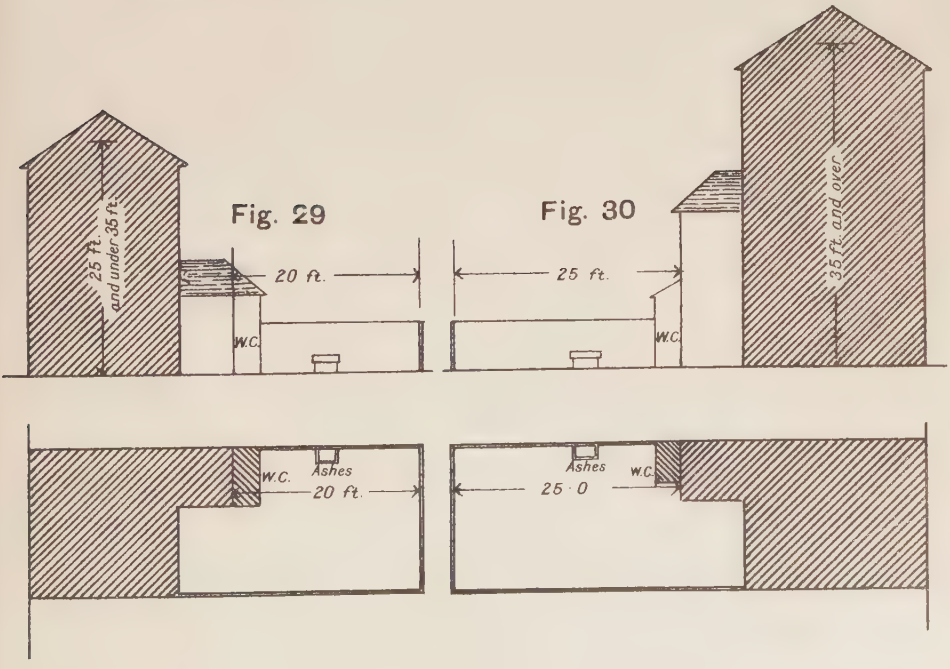


Fig. 31 BYELAW 54

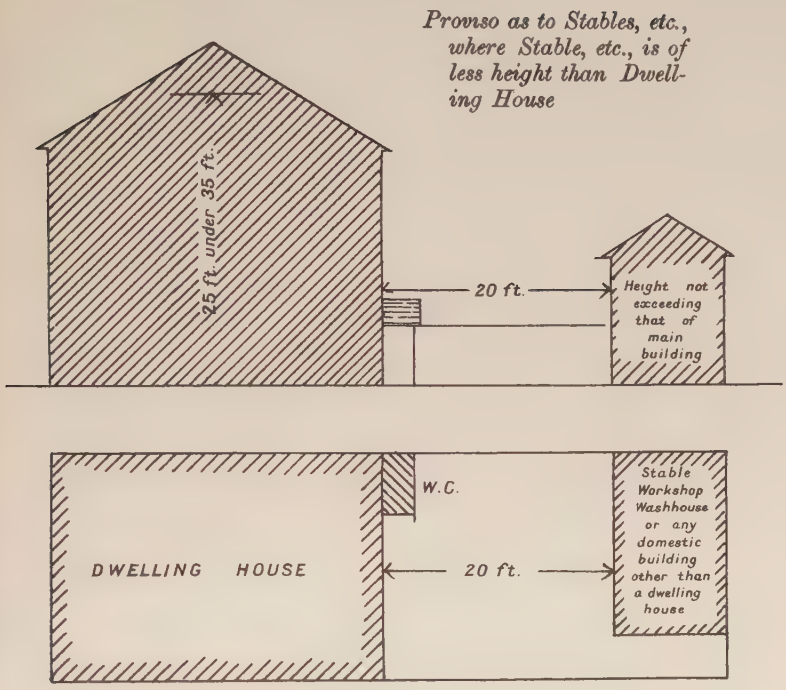
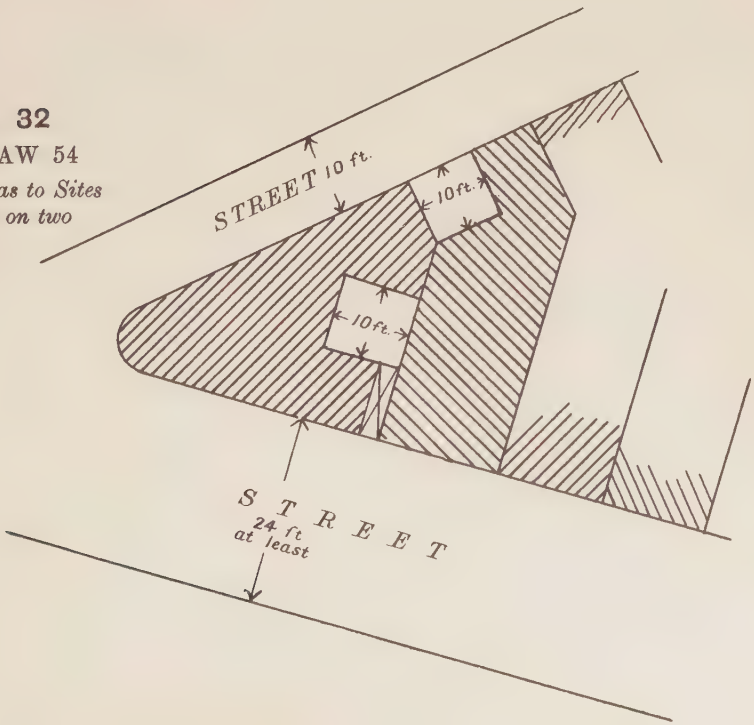

Proviso as to Stables, etc., where Stable, etc., is of less height than Dwelling House
25 ft. under 35 ft.
20 ft.
Height not exceeding that of main building
W.C.
DWELLING HOUSE
20 ft.
Stable Workshop Washhouse or any domestic building other than a dwelling house

Fig. 32
BYELAW 54
Proviso as to Sites abutting on two or more streets



OPEN SPACE ABOUT BUILDINGS

BYELAW 54
SHALLOW SITES

Fig. 33

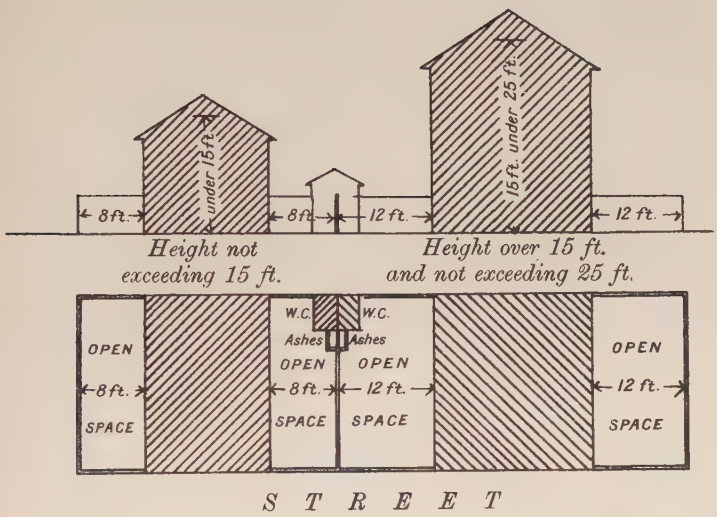
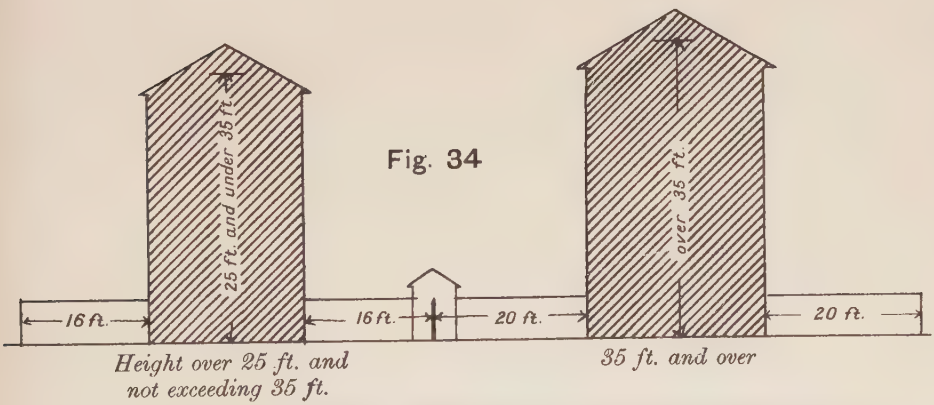


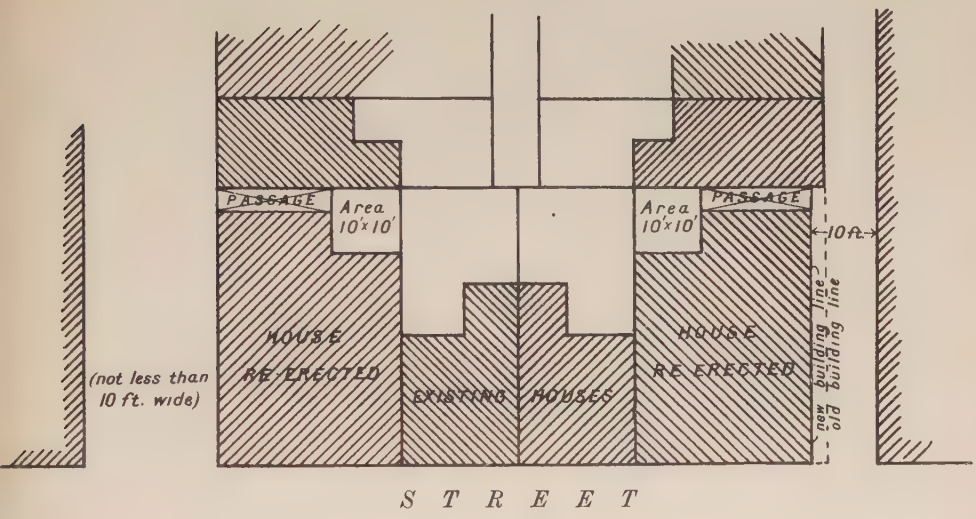
Fig. 34



OPEN SPACE ABOUT BUILDINGS

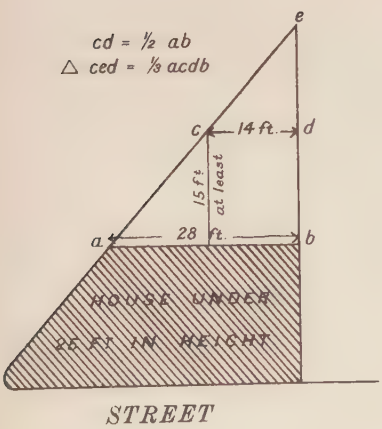
PROVISO FOR RE-ERECTIONS ON CORNER SITES

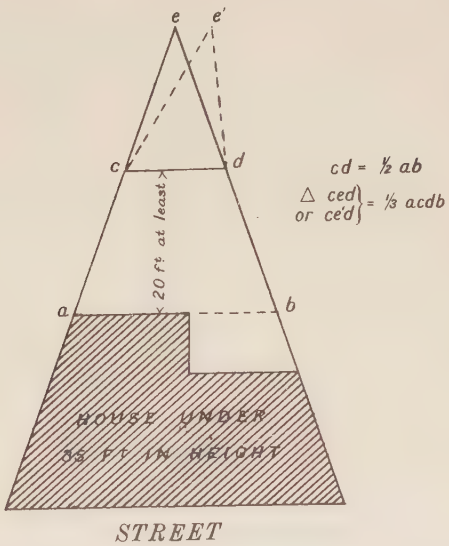
Fig. 35
BYELAW 54



SITES TAPERING TO REAR

Fig. 36
BYELAW 54





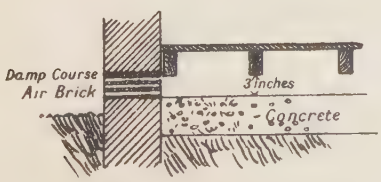
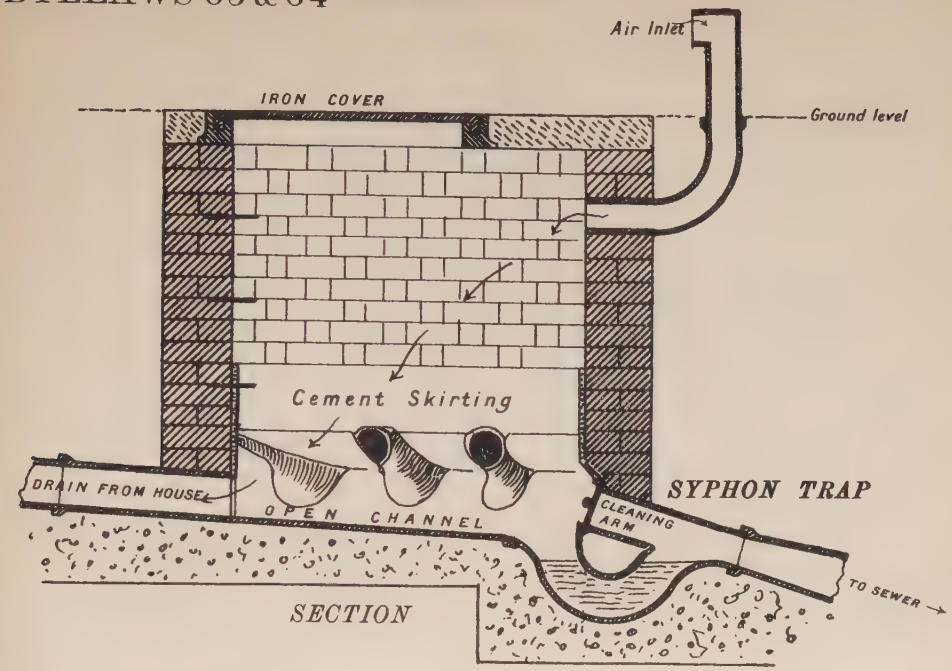


Fig. 37 BYELAW 56

Fig. 38

MANHOLE OR INSPECTION CHAMBER

BYELAWS 63 & 64 *With Syphon Trap*



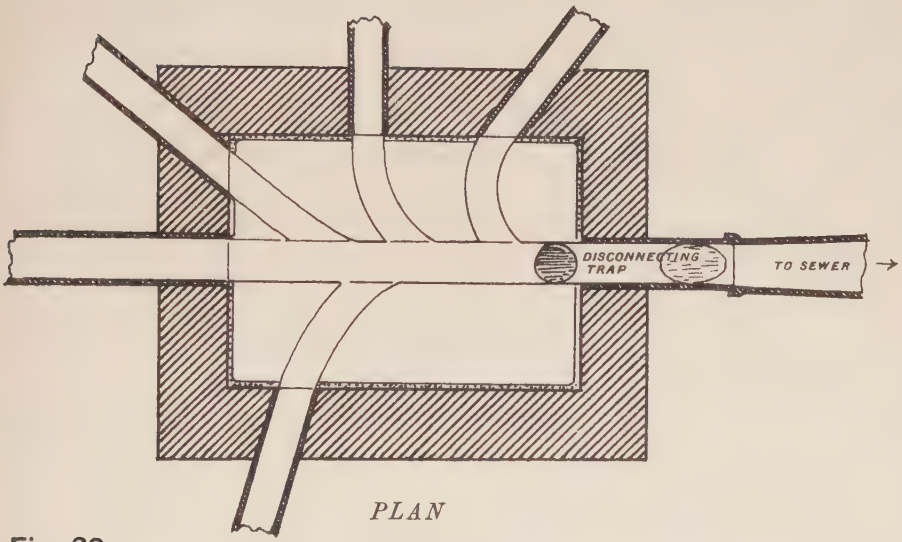
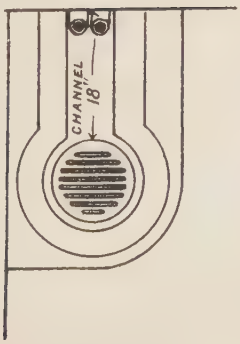
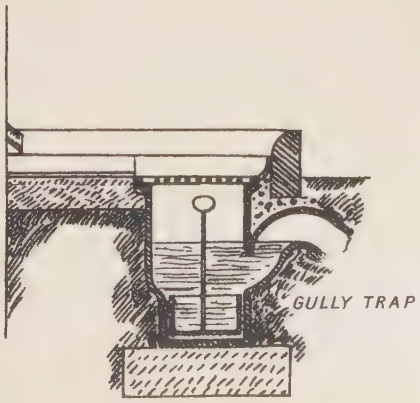


Fig. 39

BYELAW 66

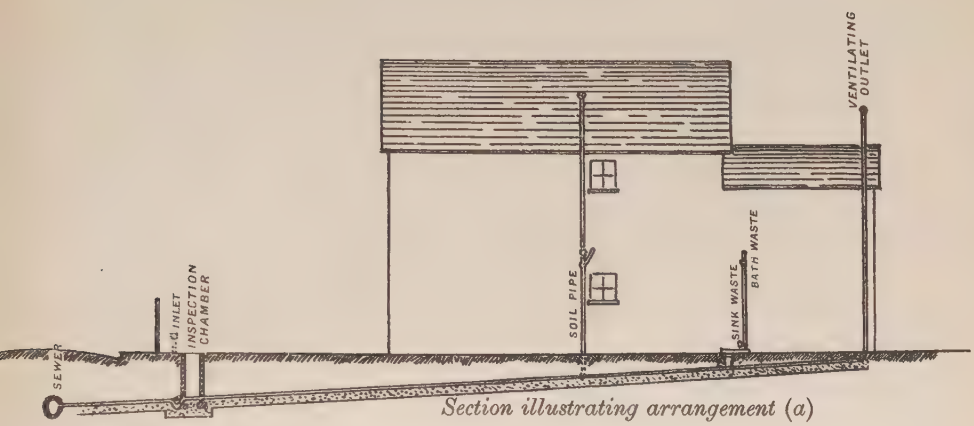




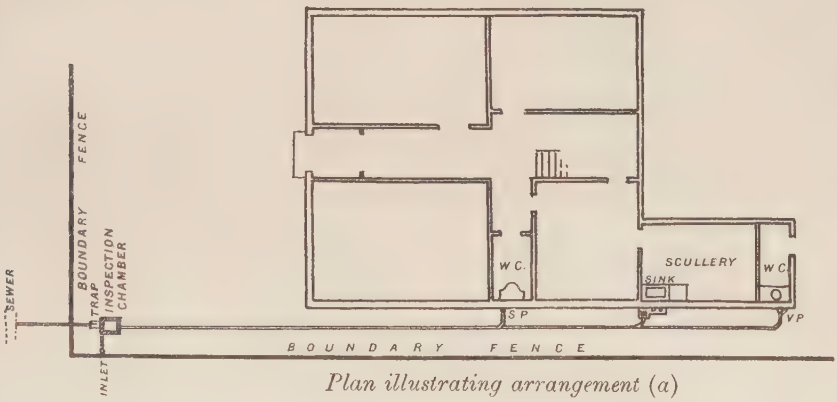
VENTILATION OF DRAINS

Fig. 40

BYELAWS 65 & 66

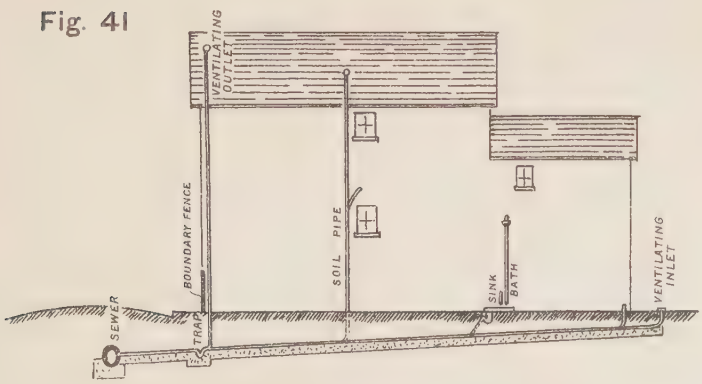


Section illustrating arrangement (a)



Plan illustrating arrangement (a)

Fig. 41



Section illustrating arrangement (b)

Fig. 45

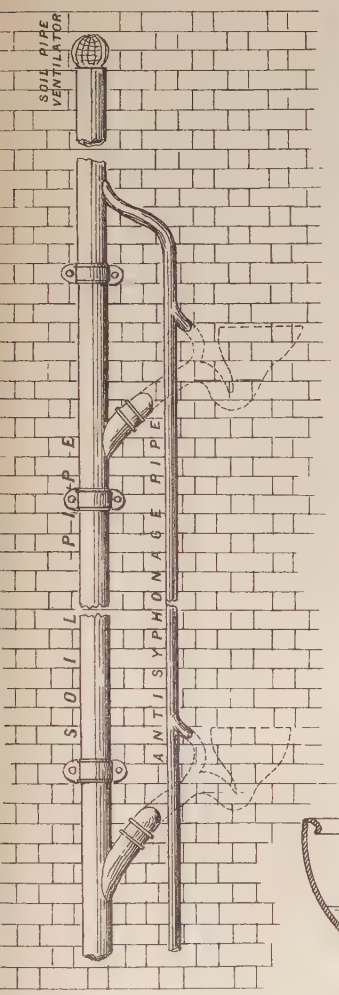
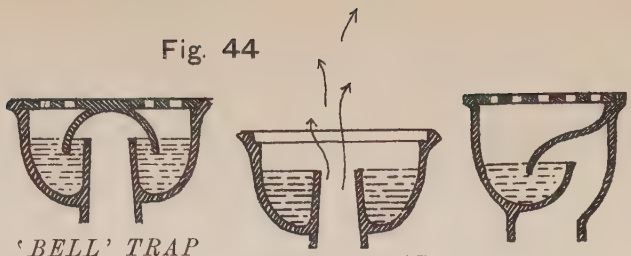


Diagram shewing the arrangement of anti syphonage pipe

Fig. 44



'BELL' TRAP

'BELL' TRAP with grating removed

'DIP' or 'LIP' TRAP

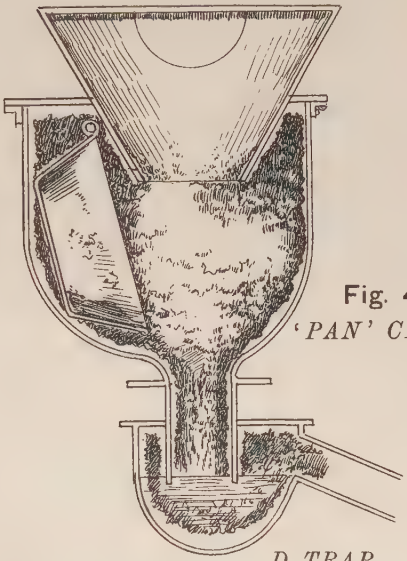


Fig. 46
'PAN' CLOSET

D TRAP

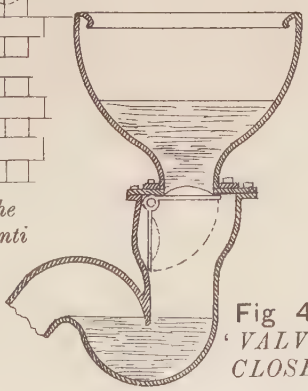


Fig 48
'VALVE' CLOSET

Fig. 47
'LONG HOPPER'

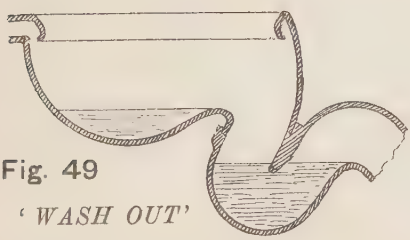


Fig. 49
'WASH OUT' CLOSET

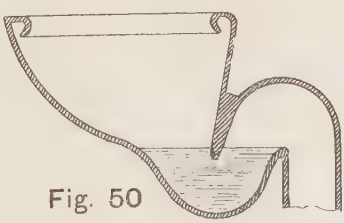
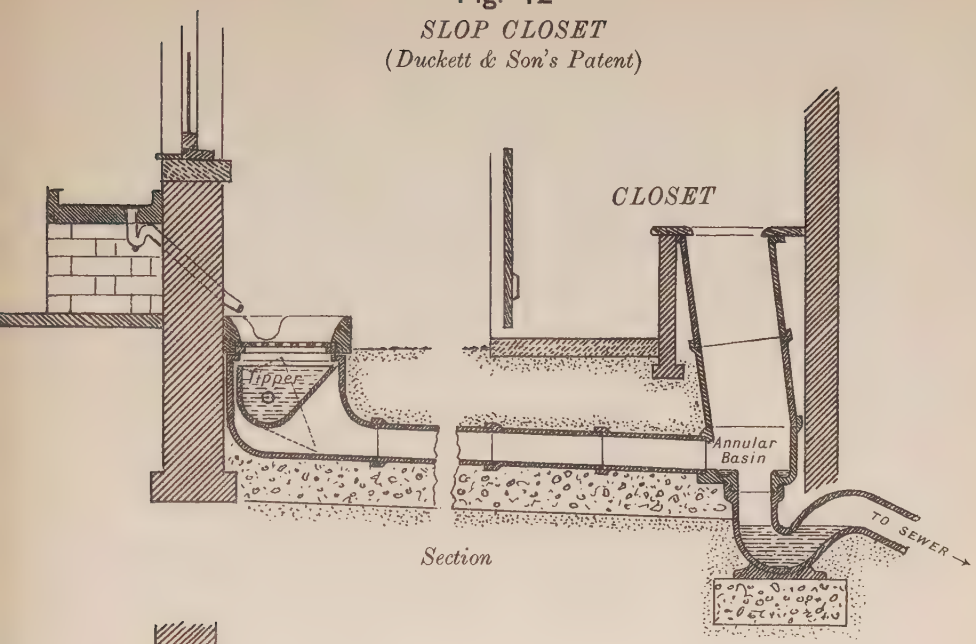


Fig. 50
WASH DOWN' CLOSET

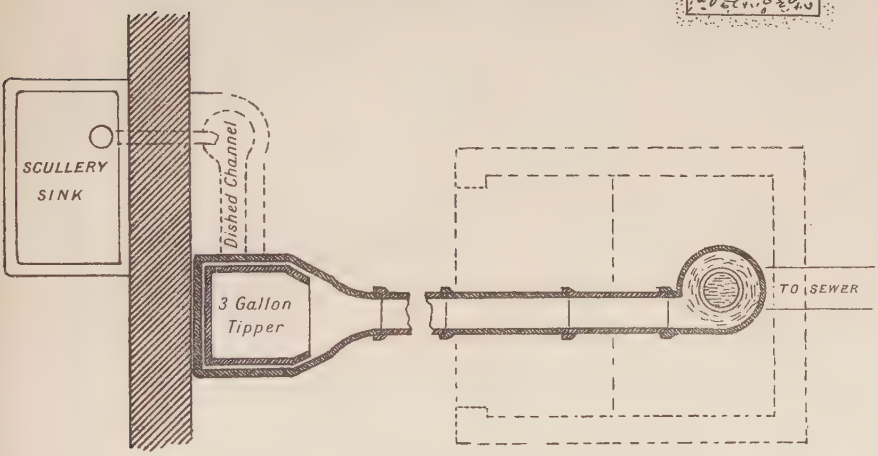
Fig. 42

SLOP CLOSET

(Duckett & Son's Patent)



Section



Plan

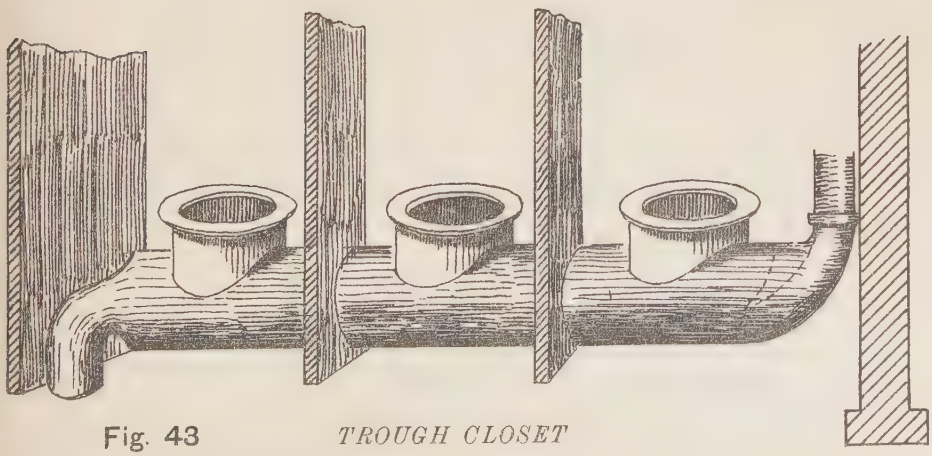
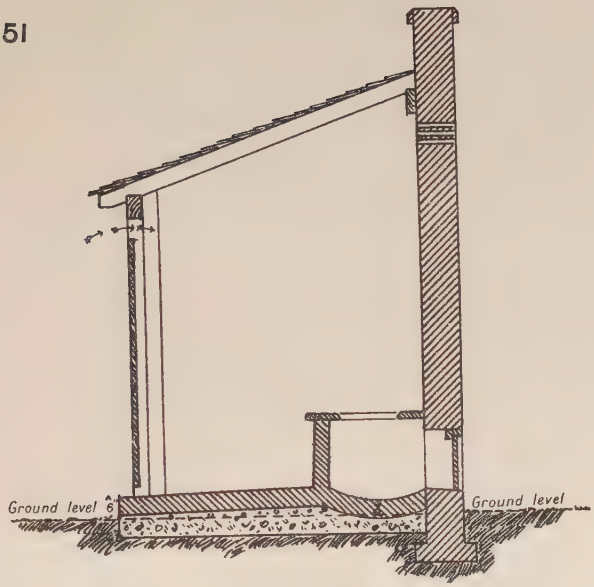


Fig. 43 *TROUGH CLOSET*

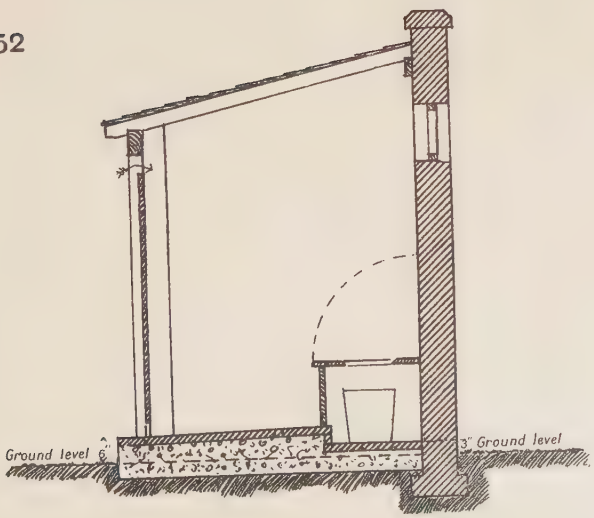
PRIVIES

Fig. 51



Earth Closet or Privy with Fixed Receptacle

Fig. 52



Earth Closet or Privy with Movable Receptacle

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